



The State Bar *of California*

OPEN SESSION AGENDA ITEM 703 JANUARY 2019

DATE: January 25, 2019

TO: Members, Board of Trustees

FROM: Destie Overpeck, Assistant General Counsel, Office of General Counsel

SUBJECT: Proposed Nonsubstantive Changes to the State Bar Rules of Procedure and Rules of the State Bar to Conform to Specific Changes in the Law: Request for Approval

EXECUTIVE SUMMARY

Pursuant to Board Rule 1.10, this proposal recommends adopting nonsubstantive changes to the State Bar Rules and Rules of Procedure of the State Bar. Board Rule 1.10 allows revisions to the rules to conform to statute and update references without public comment. The proposed revisions update the rules to reflect recent statutory changes made to the Business and Professions Code described below.

BACKGROUND

Senate Bill 36, effective 1/1/18, made a number of substantive changes to the Business and Professions Code including:

- Eliminated the requirement that 6 members of the 19-member State Bar Board of Trustees be attorneys elected from State Bar Districts.
- Separated the Sections from the State Bar, making them a voluntary association.
-

Assembly Bill 3249, effective 1/1/19, revised the Business and Professions Code in the following pertinent ways:

- Revised terminology to reflect changes in the regulatory functions of the State Bar, including removing the terms “members” and “membership” and replacing them with “licensees” and “license;” and replacing “dues” with “fees.”
- Section 6060.3 changed the last date to apply for the California Bar Exam from January 15 to January 1 for the February examination and from June 15 to June 1 for the July exam. State Bar Rules 4.61 and 4.84 are revised to reflect these date changes.

Title 9 of the Rules of Court was amended effective 1/1/19. The revisions removed the terms “members” and “membership” and replaced them with “licensees” and “license;” and replaced “dues” with “fees.” Rules of Court, Rule 9.6 was renumbered to Rule 9.8 effective 1/1/18. The citations to Rule 9.6 are revised to refer to Rule 9.8 in State Bar Rules 2.1 and 2.33.

Additionally, on May 10, 2018, the California Supreme Court issued an order approving new Rules of Professional Conduct, which went into effect November 1, 2018. The citations in the State Bar Rules to the Rules of Professional Conduct have been corrected to reflect the new rule numbers.

DISCUSSION

Pursuant to Board Rule 1.10,¹ this proposal recommends adopting nonsubstantive changes to the State Bar Rules and Rules of Procedure of the State Bar. Board Rule 1.10 allows revisions to the rules to conform to statute and update references without public comment. The proposed revisions update the rules to reflect recent statutory changes made to the Business and Professions Code described below.

The terms “members” and “membership” are replaced with “licensees” and “license” throughout the State Bar Rules (Attachment B). The Rules of Procedure of the State Bar (Attachment C), which include Title 5-Discipline and Title III (State Bar Court, Chief Trial Counsel, Office of Probation), are the rules that govern proceedings conducted by the State Bar Court.² In the Rules of Procedure, the term “attorney” generally replaces the word “member.” “Attorney” is defined as an attorney subject to the regulatory or disciplinary jurisdiction of the State Bar. This term includes non-licensed attorneys such as those practicing in California pursuant to the special admissions rules.

¹ Board Book Rule 1.10 Public Comment provides:

(B) Public comment is not required

(1) to correct clerical errors; clarify grammar; improve organization; conform to specific changes in a law; update references or citations; or make similar editorial changes; (2) to modify a proposal that has been circulated for public comment when the board deems the modification non-substantive or reasonably implicit in the proposal; or

(3) to add or modify an appendix to these rules.

² Title IV of the Rules of Procedure is the Standards for Attorney Sanctions for Professional Misconduct and is not included in the agenda item.

The following additional nonsubstantive changes are proposed:

- The word “dues” is replaced with “fees.”
- “Board of Governors” is replaced with “Board of Trustees.”
- References to the Rules of Professional Conduct (amended effective 11/1/18) and Rules of Procedure of the State Bar were revised to refer to the new rule numbers.
- References to the Rules of Court, Rule 9.6 were revised to refer to Rule 9.8, which was renumbered effective 1/1/18.
- Business and Professions Code section 6060.25 (effective 1/1/16; amended effective 10/2/17) provides that any identifying information submitted by an applicant to the State Bar for admission and a license to practice law and all State Bar admissions records that may identify an individual applicant shall be confidential. This section is added as a reference to the admissions rules that discuss confidentiality.
- The State Bar Rules that set forth election procedures or refer to voting districts have been stricken.
- All references to the “Sections” are stricken.
- The dates for registering to take the bar and to request testing accommodations in State Bar Rules 4.61 and 4.84 were revised to conform to the dates in Business and Professions Code section 6060.3 (amended effective 1/1/19).
- Reference to “Member Services” is changed to the unit’s new name, “Attorney Regulation & Consumer Resources.”
- Rules that were repealed as of 2016 are stricken so that they can be removed.

Attachment A is the spread sheet that list the proposed revisions made to each rule.

Attachment B sets forth the proposed revised State Bar Rules shown in tracked changes.

Attachment C sets forth the proposed revised Rules of Procedure of the State Bar shown in tracked changes.

This proposal only addresses the above noted nonsubstantive changes. Because the revisions are conforming to statutes and update references, the revisions are not required to have a public comment period. Upon adoption by the Board of Trustees, the revisions should be immediately effective. (Board Rule 1.10.)

In addition, there are proposals currently in process regarding substantive changes to State Bar rules. Proposed State Bar Rules regarding special admissions are pending approval with the California Supreme Court.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

Title 1, Division 1, Rule 1.3, 1.4, 1.5

Title 1, Division 3, Rule 1.22

Title 2, Division 1, Rules 2.1, 2.2, 2.3, 2.4

Title 2, Division 2, Rules 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18

Title 2, Division 3, Rules 2.30, 2.31, 2.32, 2.33, 2.34, 2.35, 2.36, 2.40, 2.45

Title 2, Division 4, Rules 2.50, 2.51, 2.52, 2.53, 2.54, 2.55, 2.70, 2.71, 2.72, 2.73, 2.80, 2.81, 2.82, 2.83, 2.84, 2.85, 2.86, 2.87, 2.91, 2.92, 2.93

Title 2, Division 5, Chapter 1, Rule 2.100

Title 2, Division 5, Chapter 2, Rules 2.110, 2.111, 2.112, 2.113, 2.114, 2.115, 2.117, 2.118

Title 3, Division 1, Chapter 1, Rules 3.4, 3.5, 3.6

Title 3, Division 2, Chapter 1, Rules 3.50, 3.51, 3.52, 3.53, 3.54, 3.55, 3.56, 3.57

Title 3, Division 2, Chapter 2, Rules 3.93, 3.110, 3.113

Title 3, Division 2, Chapter 3, Rule 3.154

Title 3, Division 2, Chapter 4, Rules 3.171, 3.174

Title 3, Division 2, Chapter 5, Rules 3.240, 3.244, 3.245, 3.246, 3.247, 3.248, 3.252

Title 3, Division 2, Chapter 6, Rules 3.325, 3.326, 3.327, 3.328, 3.329, 3.330

Title 3, Division 3, Chapter 1, Rules 3.362, 3.364, 3.367, 3.372, 3.374, 3.377

Title 3, Division 3, Chapter 2, Rules 3.380, 3.381, 3.382

Title 3, Division 3, Chapter 4, Rules 3.402, 3.406, 3.408, 3.411

Title 3, Division 4, Chapter 1, Rules 3.420, 3.421, 3.441

Title 3, Division 4, Chapter 2, Rules 3.512, 3.536, 3.564

Title 3, Division 5, Chapter 1, Rules 3.600, 3.601

Title 3, Division 5, Chapter 2, Rules 3.662, 3.672

Title 3, Division 5, Chapter 3, Rules 3.800, 3.822, 3.824, 3.826

Title 4, Division 1, Chapter 1, Rules 4.4, 4.61, 4.84

Title 4, Division 3, Chapter 1, Rule 4.241

Title 5, Division 1, Rules 5.4, 5.10, 5.11

Title 5, Division 2, Chapter 1, Rules 5.21, 5.24, 5.25, 5.26, 5.30

Title 5, Division 2, Chapter 2, Rules 5.41, 5.43, 5.44, 5.47, 5.50, 5.51, 5.52, 5.54, 5.55, 5.56, 5.57, 5.58

Title 5, Division 2, Chapter 3, Rules 5.60, 5.61, 5.56, 5.68

Title 5, Division 2, Chapter 4, Rules 5.80, 5.81, 5.82, 5.83, 5.85

Title 5, Division 2, Chapter 5, Rules 5.100, 5.104, 5.107, 5.108, 5.109, 5.111

Title 5, Division 2, Chapter 6, Rules 5.120, 5.124, 5.125, 5.126, 5.127, 5.129, 5.130, 5.131, 5.132, 5.133, 5.134, 5.135, 5.136

Title 5, Division 3, Rules 5.155, 5.159, 5.161, 5.162

Title 5, Division 4, Chapter 1, Rules 5.170, 5.171, 5.172, 5.173, 5.174

Title 5, Division 4, Chapter 2, Rules 5.180, 5.181, 5.182

Title 5, Division 4, Chapter 3, Rules 5.190, 5.191, 5.192, 5.193, 5.194, 5.195, 5.196

Title 5, Division 4, Chapter 4, Rules 5.205, 5.206, 5.207, 5.208, 5.209, 5.210

Title 5, Division 4, Chapter 5, Rules 5.215, 5.216, 5.217, 5.219

Title 5, Division 4, Chapter 6, Rules 5.225, 5.226, 5.227, 5.228, 5.230, 5.231, 5.236, 5.237

Title 5, Division 4, Chapter 7, Rules 5.240, 5.241, 5.242, 5.243

Title 5, Division 4, Chapter 8, Rules 5.250, 5.251, 5.252

Title 5, Division 4, Chapter 9, Rules 5.256, 5.258, 5.260, 5.262
Title 5, Division 4, Chapter 10, Rule 5.273
Title 5, Division 5, Chapter 1, Rule 5.300
Title 5, Division 5, Chapter 2, Rules 5.310, 5.314, 5.315
Title 5, Division 6, Chapter 1, Rules 5.330, 5.331, 5.333, 5.334, 5.335, 5.336
Title 5, Division 6, Chapter 2, Rules 5.340, 5.341, 5.342, 5.343, 5.344, 5.345, 5.346
Title 5, Division 6, Chapter 3, Rule 5.351
Title 5, Division 6, Chapter 4, Rule 5.360
Title 5, Division 6, Chapter 5, Rules 5.380, 5.381, 5.382, 5.383, 5.384, 5.385, 5.386, 5.387, 5.388, 5.389
Title 5, Division 6, Chapter 6, Rules 5.390, 5.391, 5.392, 5.396, 5.398
Title 5, Division 7, Chapter 2, Rules 5.420, 5.421, 5.422, 5.423, 5.424, 5.425, 5.427
Title 5, Division 7, Chapter 3, Rule 5.440
Title 6, Division 1, Chapter 1, Rules 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8
Title 6, Division 1, Chapter 2, Rule 6.21
Title 6, Division 1, Chapter 3, Rules 6.30, 6.31
Title 6, Division 2, Chapter 1, Rule 6.57
Title 6, Division 2, Chapter 2, Rule 6.66
Title 6, Division 4, Article V, Sections 1, 2, 3, 4, 5, 6, 7
Title 6, Division 4, Article IX, Section 1
Title 7, Division 1, Chapter 1, Rule 7.2
Title 7, Division 1, Chapter 3, Rules 7.40, 7.66
Title 7, Division 2, Rule 7.101
Title III, Division II, Chapter 2, Rule 2201
Title III, Division II, Chapter 3, Rule 2302
Title III, Division II, Chapter 4, Rules 2401, 2402, 2403, 2404, 2406, 2408, 2409, 2410
Title III, Division II, Chapter 5, Rules 2502, 2503
Title III, Division II, Chapter 6, Rules 2602, 2604
Title III, Division III, Rules 2701, 2702
Title III, Division IV, Chapter 2, Rule 3201
Title III, Division V, Chapter 3, Rule 4304

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 1. Successfully transition to the “new State Bar”— an agency focused on public protection, regulating the legal profession, and promoting access to justice.

Objective: b. Implement and pursue governance, composition, and operations reforms needed to ensure that the Board's structure and processes optimally align with the State Bar's public protection mission.

RECOMMENDATIONS

It is recommended that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees adopts the recommended revisions to State Bar Rules and the Rules of Procedure of the State Bar, as reflected in Attachments B and C; because the revisions are nonsubstantive, the Board of Trustees adopts the revisions without public comment pursuant to Board Rule 1.10(B); and it is;

FURTHER RESOLVED, that the revisions are effective January 25, 2018.

ATTACHMENT(S) LIST

- A.** Spreadsheet that list the proposed revisions made to each rule.
- B.** Proposed revised State Bar Rules shown in tracked changes.
- C.** Proposed revised Rules of Procedure of the State Bar shown in tracked changes.

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
TITLE 1			Global Provisions	
	Division 1		What these rules are	<p>Rule 1.3(A) - change "members" to "licensees" in two places.</p> <p>Rule 1.4(A), (B) - change "members" to "licensees" in two places.</p> <p>Rule 1.5(B) - change "Members" to "Licensees" in Title 2 title.</p>
TITLE 1	Division 2		Public comment	N/A
TITLE 1	Division 3		Reading and applying the rules	Rule 1.22(C) - change "Members" to "Licensees" in definitions.
TITLE 2			Rights and Responsibilities of Members Licensees	
	Division 1		Member Licensee Record	<p>Title - change "Members" to "Licensees" in main title and division 1 title.</p> <p>Rule 2.1 - change "membership" to "licensee;" change reference of Rule of Court 9.6 to 9.8.</p> <p>Rule 2.2 - change "member" to "licensee."</p> <p>Rule 2.2(B) - change "member" to "licensee"</p> <p>Rule 2.2(G) - change "membership" to "license."</p> <p>Rule 2.2(H) - change "membership" to "license."</p> <p>Rule 2.3 - change "member" to "licensee."</p>

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

TITLE Division Chapter Rule

Amendments and Corrections

Rule 2.3(A) - change "member" to "licensee" in three places.

Rule 2.3(B) - change "member" to "licensee" in two places.

Rule 2.4 - change "member" to "licensee" in three places.

TITLE 2

Division 2

Fees

Title - change "Members" to "Licensees" in main title.

Title - change "Membership" to "License" in Division 2 title.

Rule 2.10(A) - change "membership" to "license;" change "member" to "licensee;" change "membership" to "status."

Rule 2.10(B) - change "member" to "licensee;" remove "membership;" add "license."

Rule 2.11 - change "member" to "licensee;" remove "membership;" add "license."

Rule 2.12 - change "members" to "licensees" in the rule title; change "member" to "licensee" in the first paragraph.

Rule 2.12(A) - change "membership" to "license."

Rule 2.12(B) - change "membership" to "license."

Rule 2.13 - change "membership" to "license."

Rule 2.14 - change "member" to "licensee;" change "membership" to "license."

Rule 2.15(A) - change "member" to "licensee;" change "membership" to "license."

Rule 2.15(A)(1) - change "Active Member" to "Active Licensee."

Rule 2.15 - change "members" to "licensees" in the last paragraph.

Rule 2.15(B) - change "membership" to "license;" change "active member" to "active licensee" in two places.

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

TITLE Division Chapter Rule

Amendments and Corrections

Rule 2.15(B)(1) - change "membership" to "license;" change "member's" to "licensee's."

Rule 2.15(C) - change "Members" to "Licensees"

Rule 2.15(D) - change "member" to "licensee in two places;" change "membership" to "license."

Rule 2.16(A) - change "membership" to "license."

Rule 2.16(A)(5) - change "membership" to "license."

Rule 2.16(C) - change "membership" to "license."

Rule 2.16(C)(3)(a) - change "member" to "licensee."

Rule 2.16(C)(3)(b) - change "member" to "licensee."

Rule 2.16(C)(3)(c) - change "member" to "licensee;" change "membership" to "license."

Rule 2.16(D) - change "membership" to "license;" change "member" to "licensee" in first and last paragraph.

Rule 2.16(D)(1) - change "member" to "licensee."

Rule 2.16(D)(2) - change "member" to "licensee;" change "member's" to "licensee's."

Rule 2.16(D)(2)(b) - change "member" to "licensee."

Rule 2.16(E) - change "membership" to "license;" change "membership" to "active status."

Rule 2.16(F) - change "membership" to "license;" change "inactive members" to "licensees on inactive status."

Rule 2.16(G) - change "membership" to "license;" change "member" to "licensee."

Rule 2.17(A) - change "members" to "licensees" in four places; change "membership" to "license" in three places.

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				<p>Rule 2.17(B) - change "members" to "licensees" in one place; change "member" to "licensee" in one place; change "membership" to "license" in three places.</p> <p>Rule 2.17(C) - change "membership" to "license."</p> <p>Rule 2.17(D) - change "member" to "licensee."</p> <p>Rule 2.18 - change "members" to "licensees" in two places; change "membership" to "license" in one place.</p>
TITLE 2	Division 3		Licensee Status	<p>Title - change "Members" to "Licensees" in main title.</p> <p>Title - change "Member" to "Licensee" in Division 3 title.</p> <p>Rule 2.30(A) - change "member" to "licensee;" change "inactive member" to "inactive licensee;" change "inactive members" to "inactive licensees."</p> <p>Rule 2.30(B) - change "member" to "licensee;" change "active member" to "active licensee;" change "inactive member" to "inactive licensee."</p> <p>Rule 2.30(C) - change "member" to "licensee;" change "inactive member" to "inactive licensee."</p> <p>Rule 2.31 - change "membership" to "license."</p> <p>Rule 2.31(A) - change "member" to "licensee" in 3 places; change "inactive member" to "inactive licensee."</p> <p>Rule 2.31(B) - change "membership" to "license."</p> <p>Rule 2.32(A) - change "member" to "licensee."</p> <p>Rule 2.32(B) - change "member" to "licensee."</p> <p>Rule 2.32(C) - change "membership" to "license."</p> <p>Rule 2.33 - change "membership" to "license."</p> <p>Rule 2.33(A) - change "member" to "licensee" in two places; change "membership" to "license;" change "member's" to "licensee's."</p>

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

TITLE Division Chapter Rule

Amendments and Corrections

Rule 2.33(B) - change "membership" to "license;" change "member's" to "licensee's."

Rule 2.33(C) - change "member" to "licensee."

Rule 2.33(D) - change "member" to "licensee."

Rule 2.33(E) - change "membership" to "license;" Footnote 4 - change reference to Rule of Court "9.6(b)" to "9.8(b)."

Rule 2.34(A) - change "member" to "licensee."

Rule 2.34(B) - change "member" to "licensee."

Rule 2.34(C) - change "member" to "licensee" in four places.

Rule 2.34(D) - change "member" to "licensee" in two places; change "member's" to "licensee's."

Rule 2.34(E) - change "membership" to "license;" change "member's" to "licensee's."

Rule 2.35 - change "member" to "licensee;" change "membership" to "license" in two places.

Rule 2.36(A) - change "member" to "licensee."

Rule 2.36(B) - change "member's" to "licensee's."

Rule 2.36(C) - change "member" to "licensee" in five places.

Rule 2.36(D) - change "member" to "licensee" in three places; change "member's" to "licensee's."

Rule 2.36(E) - change "membership" to "license;" change "member" to "licensee."

Rule 2.40 - change "membership" to "license;" change "member" to "licensee."

Rule 2.45(A) - change "member" to "licensee."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Rule 2.45(A)(1) - change "member" to "licensee."
				Rule 2.45(A)(1)(c) - change "member" to "licensee."
				Rule 2.45(A)(2) - change "member" to "licensee."
				Rule 2.45(A)(3) - change "member" to "licensee."
				Rule 2.45(A)(4) - change "member" to "licensee."
				Rule 2.45(B) - change "member" to "licensee;" change "Member Services" to "Attorney Regulation & Consumer Resources."
				Rule 2.45(C) - change "member" to "licensee;" change "inactive member" to "inactive licensee."
				Rule 2.45(D) - change "member" to "licensee."
				Rule 2.45(E) - change "member" to "licensee."
				Rule 2.45(E)(1) - change "member's" to "licensee's."
TITLE 2	Division 4		MCLE	Title - change "Members" to "Licensees" in main title.
				Rule 2.50 - change "active members" to "active licensees;" change "member's" to "licensee's."
				Rule 2.51(C) - change "member" to "licensee."
				Rule 2.51(H) - change "members" to "licensees."
				Rule 2.52 - change "member" to "licensee."
				Rule 2.53 - change "members" to "licensees."
				Rule 2.53(A) - change "member" to "licensee."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

TITLE Division Chapter Rule

Amendments and Corrections

Rule 2.53(B) - change "member" to "licensee" in two places.

Rule 2.53(C) - change "member" to "licensee."

Rule 2.53(D) - change "member" to "licensee."

Rule 2.54(A) - change "members" to "licensees."

Rule 2.54(B) - change "Members" to "Licensees."

Rule 2.55 - change "member" to "licensee."

Rule 2.70 - change "member" to "licensee" in two places; change "member's" to "licensee's;" Footnote 3 - change "member" to "licensee."

Rule 2.71(A) - change "member" to "licensee."

Rule 2.71(B) - change "member" to "licensee."

Rule 2.72(A) - change "member" to "licensee."

Rule 2.72(A)(3) - change "member's" to "licensee's."

Rule 2.72(C) - change "member" to "licensee" in two places.

Rule 2.73 - change "member" to "licensee."

Rule 2.80 - change "member" to "licensee."

Rule 2.81 - change "member" to "licensee."

Rule 2.81(C) - change "member" to "licensee."

Rule 2.82 - change "member" to "licensee."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Rule 2.82(A) - change "member" to "licensee."
				Rule 2.83 - change "member" to "licensee."
				Rule 2.83(C)(1) - change "member's" to "licensee's."
				Rule 2.84 - change "member" to "licensee."
				Rule 2.85(A) - change "member" to "licensee" in three places.
				Rule 2.85(B) - change "member" to "licensee."
				Rule 2.86 - change "member" to "licensee" in three places.
				Rule 2.87 - change "member" to "licensee."
				Rule 2.91(A) - change "member" to "licensee;" change "inactive member" to "inactive licensee."
				Rule 2.91(B) - change "member" to "licensee."
				Rule 2.92 - change "member" to "licensee."
				Rule 2.93 - change "member" to "licensee."
TITLE 2	Division 5	Trust Accounts		Title - change "Members" to "Licensees" in main title.
		Chapter 1 Global Provisions		Rule 2.100(E) - change "member" to "licensee."
				Rule 2.100(I) - change "member" to "licensee" in two places; change "member's" to "licensee's."
				Rule 2.100(J) - change "member" to "licensee" in two places.

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
		Chapter 2	Members' Licensees' Duties	Chapter 2 Title - change "Members'" to "Licensees'."
				Rule 2.110(A) - change "Members" to "Licensees;" change "member" to "licensee."
				Rule 2.110(A)(4) - change "member's" to "licensee's."
				Rule 2.110(A)(5) - change "member" to "licensee."
				Rule 2.110(B) - change "member" to "licensee."
				Rule 2.111(A) - change "member" to "licensee."
				Rule 2.111(B) - change "member" to "licensee."
				Rule 2.112 - change "member" to "licensee."
				Rule 2.113 - change "member" to "licensee" in four places.
				Rule 2.114 - change "member" to "licensee."
				Rule 2.115 - change "member" to "licensee."
				Rule 2.117 - change "member" to "licensee."
				"licensees;" change reference to former Rule 4-100 to new Rule of Professional Conduct, Rule 1.15

TITLE 3 Programs and Services

Division 1	Chapter 1	Prospective Members Licensees	Title - change "Members" to "Licensees" in Division 1 Title.
			Rule 3.4 - change "member" to licensee."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				<p>Rule 3.5(E) - change "member" to licensee."</p> <p>Rule 3.6(A) - change "member" to licensee" in two places.</p> <p>Rule 3.6(B)(1) - change "member" to licensee."</p>
TITLE 3	Division 2	Chapter 1	Sections	Repeal this chapter altogether. Rules 3.50, 3.51, 3.52, 3.53, 3.54, 3.55, 3.56, 3.57.
TITLE 3	Division 2	Chapter 2	Attorney Members California Licensees - Legal Specialization	<p>Title - change "Attorney Members" to "California Licensees" in Division 2 Title.</p> <p>Rule 3.93(B) - change "member" to "licensee."</p> <p>Rule 3.110(A)(1) - change "member" to "licensee."</p> <p>Rule 3.113 - change "member" to "licensee."</p>
TITLE 3	Division 2	Chapter 3	Attorney Members California Licensees - Law Corporations	<p>Title - change "Attorney Members" to "California Licensees" in Division 2 Title.</p> <p>Rule 3.154(C) - change "member" to "licensee" in two places.</p>
TITLE 3	Division 2	Chapter 4	Licensees - Limited Liability Partnerships	<p>Title - change "Attorney Members" to "California Licensees" in Division 2 Title.</p> <p>Rule 3.171(A) - change "member" to "licensee."</p> <p>Rule 3.171(B) - change "member" to "licensee."</p> <p>Rule 3.174 - change reference to Rules of Professional Conduct, Rule 1-400 to 7.5 and Rule 1-311 to 5.3.1.</p>
TITLE 3	Division 2	Chapter 5	Licensees - Lawyer Assistance Program	<p>Title - change "Attorney Members" to "California Licensees" in Division 2 Title.</p> <p>Rule 3.240 - change "members" to "licensees" in two places.</p> <p>Rule 3.244(A) - change "members" to "licensees."</p>

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				<p>Rule 3.245 - change "members" to "licensees."</p> <p>Rule 3.246 - change "member" to "licensee" in two places.</p> <p>Rule 3.247 - change "members" to "licensees" in two places.</p> <p>Rule 3.248(A) - change "members" to "licensees" in two places.</p> <p>Rule 3.252(B) - change "member" to "licensee."</p>
TITLE 3	Division 2	Chapter 6	Licensees - Pro Bono Practice Attorneys	<p>Title - change "Attorney Members" to "California Licensees" in Division 2 Title.</p> <p>Rule 3.325(A) - change "members" to "licensees."</p> <p>Rule 3.325(B) - change "member" to "licensee."</p> <p>Rule 3.326 - change "membership" to "license" in three places; change "members" to "licensees" in two places.</p> <p>Rule 3.327 - change "member" to "licensee."</p> <p>Rule 3.327(A) - change "member" to "licensee."</p> <p>Rule 3.328 - change "member" to "licensee;" change "member's" to "licensee's."</p> <p>Rule 3.329(D) - change "members" to "licensees."</p> <p>Rule 3.330(A) - change "member" to "licensee."</p> <p>Rule 3.330(B) - change "member" to "licensee."</p>
TITLE 3	Division 3	Chapter 1, Article 1	Multijurisdictional Practice - Registered Legal Services Attorneys	<p>Title - change "Non-Member" to "Non-Licensee" in Division 3 Title.</p>

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Rule 3.362(F) - change "member" to "licensee."
				Rule 3.364(A)(5) - change "member" to "licensee."
				Rule 3.367 - change "member" to "licensee."
TITLE 3	Division 3	Chapter 1, Article 2	Multijurisdictional Practice - Registered In-House Counsel	Title - change "Non-Member" to "Non-Licensee" in Division 3 Title.
				Rule 3.372(D) - change "member" to "licensee."
				Rule 3.374(A)(5) - change "member" to "licensee."
				Rule 3.377 - change "member" to "licensee."
TITLE 3	Division 3	Chapter 2	Out-of-State Attorney Arbitration Counsel	Title - change "Non-Member" to "Non-Licensee" in Division 3 Title.
				Rule 3.380(A) - change "member" to "licensee."
				Rule 3.380(B) - change "members" to "licensees."
				Rule 3.381(B) - change "member" to "licensee."
				Rule 3.381(D) - change "members" to "licensees."
				Rule 3.382 - change "member" to "licensee."
TITLE 3	Division 3	Chapter 4	Foreign Legal Consultants	Title - change "Non-Member" to "Non-Licensee" in Division 3 Title.
				Rule 3.402(F) - change "member" to "licensee."
				Rule 3.406(A) - change "member" to "licensee."
				Rule 3.408(A)(2) - change "member" to "licensee."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Rule 3.411 - change "member" to "licensee."
TITLE 3	Division 4	Chapter 1	Consumers - Client Security Fund	Rule 3.420(A) - change "member" to "licensee."
				Rule 3.421(A) - change "members" to "licensees."
				Rule 3.421(C) - change "members" to "licensees."
				Rule 3.441(C) - change cite to State Bar Rule of Procedure 187 to 5.70.
TITLE 3	Division 4	Chapter 2	Consumers - Fee Arbitration	Rule 3.512(D) - change fn.16 cite to Code of Professional Conduct from 3-100 to 1.6.
				Rule 3.536(A) - change "member" to "licensee."
				Rule 3.564(B) - change "membership" to "license."
				Rule 3.564(E) - remove "membership."
TITLE 3	Division 5	Chapter 1, Article 1	- Providers of Continuing Legal Education	Rule 3.600(E) - change "member" to "licensee."
				Rule 3.601(A) - change "members" to "licensees."
				Rule 3.601(C) (footnote 2) - change "member" to "licensee."
TITLE 3	Division 5	Chapter 2, Article 1	Providers of Programs and Services - Legal Services Trust Fund	Rule 3.662(A) - change "members" to "licensees."
				Rule 3.662(B) - change "members" to "licensees."
				Rule 3.672(A) - change "member" to "licensee" in two places.
TITLE 3	Division 5	Chapter 3, Article 1	Providers of Programs and Services - Lawyer Referral Services	Rule 3.800 - change reference to Rule of Professional Conduct 1-600 to 5.4.
				Rule 3.822(A) - change "members" to "licensees."

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Rule 3.824(A) - change "member" to "licensee."
				Rule 3.826(C)(2) - change "member" to "licensee."
TITLE 3	Division 5	Chapter 4	Providers of Programs and Services - Approval to certify legal specialists	NO CHANGES
TITLE 4			Admissions and Educational Standards Admission to Practice Law in California - General Provisions	Rule 4.4 - add reference to B&P Code section 6060.25
	Division 1	Chapter 1		Rule 4.61(A) - change June "15" to June "1;" change January "15" to January "1." Rule 4.84(C) - change January "15" to January "1;" change June "15" to June "1."
	Division 2	Chapter 1	California - Accredited Law School Rules	NO CHANGES to rules or to "Accredited Law School Fees."
	Division 3	Chapter 1	California - Unaccredited Law School Rules	Rule 4.241(A)(6) - change "members" to "licensees." NO CHANGES to "Unaccredited Law School Fees."
TITLE 5			Discipline	
	Division 1		General Rules	Rule 5.4 - change "member" to "attorney" in eleven places and accompanying "a" to "an" in two places. Rule 5.10 - change "member" to "attorney." Rule 5.11 change "a member" to "an attorney" and "member's" to "attorney's" in two places.
	Division 2	Chapter 1	Case Proceedings - Commencement of	Rule 5.21 - change "member" to "attorney" in nine places. Rule 5.25 - change "a member" to "an attorney" in 2 places, "member's" to "attorney's," "membership" to "attorney," and "nonmember" to "nonattorney" in 2 places.

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				"membership" to "attorney," "member" to "attorney," and "nonmember" to "nonattorney" in 2 places.
				Rule 5.30 - change "member" to "attorney" in two places.
		Chapter 2	Case Proceedings - Pleadings, Motions, and Stipulations	Rule 5.41 - change "member" to "attorney" in two places. Rule 5.43 - change "member" to "attorney" in five places and "member's attorney" to "attorney's counsel." Rule 5.44 - change "member" to "attorney." Rule 5.47 - change "members" to "attorneys." Rule 5.50 - change "member" to "attorney" and "member's" to "attorney's." Rule 5.51 - change "member" to "attorney" in four places with one accompanying change of "a" to "an." Rule 5.52 - change "member" to "attorney." Rule 5.54 - change "member" to "attorney" in four places." Rule 5.55 - change "member" to "attorney" in five places and "member's" to "attorney's" in three places. Rule 5.56 - change "member" to "attorney" in five places and "member's" to "attorney's" in three places. Rule 5.57 - change "member" to "attorney" in two places and "member's" to "attorney's" in one place.
		Chapter 3	Case Proceedings - Subpoenas and Discovery	Rule 5.58 - change "member" to "attorney." Rule 5.60 - change "member" to "attorney." Rule 5.61 - change "a member's" to "an attorney's." Rule 5.65 - change "member" to "attorney" in three places and "member's attorney" to "attorney's counsel."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
		Chapter 4	Case Proceedings - Defaults	<p>Rule 5.68 - change "member's" to "attorney's" in three places and "member" to "attorney" in three places with two accompanying changes of "a" to "an."</p> <p>Rule 5.80 - change "member's" to "attorney's" and "member" to "attorney" in eight places with one accompanying change of "a" to "an."</p> <p>Rule 5.81 - change "member's" to "attorney's" in four places, "member" to "attorney" in six places, and "membership" to "attorney."</p> <p>Rule 5.82 - change "member" to "attorney" in four places and "a member's" to "an attorney's."</p> <p>Rule 5.83 - change "member's" to "attorney's" in two places, "member" to "attorney" in thirteen places, and "a member" to "an attorney" in two places.</p> <p>Rule 5.85 - change "member's" to "attorney's" in three places and "member" to "attorney" in ten places.</p>
		Chapter 5	Case Proceedings - Trials	<p>Rule 5.100 - change "member" to "attorney" in two places with one accompanying "a" to "an."</p> <p>Rule 5.104 - change "member" to "attorney" in three places, change "a member's" to "an attorney's," and change "a member" to "an attorney."</p> <p>Rule 5.107 - change "member's" to "attorney's" in two places and "member" to "attorney" in three places.</p> <p>Rule 5.108 - change "member" to "attorney."</p> <p>Rule 5.109 - change "member" to "attorney" in three places.</p> <p>Rule 5.111 - change "member" to "attorney."</p>
		Chapter 6	Case Proceedings - Disposition and Costs	<p>Rule 5.120 - change "a member" to "an attorney."</p> <p>Rule 5.124 - change "member" to "attorney" in four places.</p> <p>Rule 5.125 - change "a member" to "an attorney."</p> <p>Rule 5.126 - change "member" to "attorney" in three places.</p> <p>Rule 5.127 - change "member" to "attorney" in two places, "member's" to "attorney's" in three places, "membership" to "attorney" in three places, and "a member" to "an attorney."</p>

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				<p>member" to "an attorney" in 6 places, "a member's" to "an attorney's," and "membership" to "attorney."</p> <p>Rule 5.130 - change "member" to "attorney" in two places, "member's" to "attorney's," and "a member" to "an attorney" in two places.</p> <p>Rule 5.131 - change "member" to "attorney" in five places and "a member" to "an attorney" in two places.</p> <p>Rule 5.132 - change "member" to "attorney."</p> <p>Rule 5.133 - change "member" to "attorney" in two places and "a member" to "an attorney."</p> <p>Rule 5.134 - change "member" to "attorney."</p> <p>Rule 5.135 - change "member" to "attorney" in two places and "a member" to "an attorney" in two places.</p> <p>Rule 5.136 - change "member" to "attorney" and change "member's" to "attorney's."</p>
	Division 3		Review Department and Powers Delegated by Supreme	<p>Rule 5.155 - change "member" to "attorney" in two places.</p> <p>Rule 5.159 - change "members" to "attorneys."</p> <p>Rule 5.161 - change "member" to "attorney" and "a member" to "an attorney."</p> <p>Rule 5.162 - change "member" to "attorney" in 17 places, "member's" to "attorney's" in 13 places, and "a member" to "an attorney" in 2 places.</p>
	Division 4	Chapter 1	Involuntary Inactive Enrollment Proceedings - Bus. & Prof.	<p>Rule 5.170 - change "a member's" to "an attorney's."</p> <p>Rule 5.171 - change "member" to "attorney" in two places and "a member" to "an attorney" in two places.</p> <p>Rule 5.172 - change "member" to "attorney" in four places.</p> <p>Rule 5.173 - change "member" to "attorney" in four places and "member's" to "attorney's."</p> <p>Rule 5.174 - change "member" to "attorney" in four places and "member's" to "attorney's" in two places.</p>

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
			Involuntary Inactive Enrollment	
		Chapter 2	Proceedings - Bus. & Prof.	<p>Rule 5.180 - change "a member's" to "an attorney's."</p> <p>Rule 5.181 - change "member" to "attorney" and "a member's" to "an attorney's."</p> <p>Rule 5.182 - change "member" to "attorney" in four places, "member's" to "attorney's," and "a member's" to "an attorney's."</p>
			Involuntary Inactive Enrollment	
		Chapter 3	Proceedings - Bus. & Prof.	<p>Rule 5.190 - change "a member's" to "an attorney's."</p> <p>Rule 5.191 - change "member" to "attorney."</p> <p>Rule 5.192 - change "member" to "attorney" in four places, "member's" to "attorney's" in two places, and "a member" to "an attorney."</p> <p>Rule 5.193 - change "member" to "attorney" in three places and "a member" to "an attorney."</p> <p>Rule 5.194 - change "member" to "attorney" in seven places, "member's" to "attorney's" in three places, and "a member's" to "an attorney's."</p> <p>Rule 5.195 - change "member" to "attorney" and "member's" to "attorney's."</p> <p>Rule 5.196 - change "member" to "attorney" in two places and "member's" to "attorney's."</p>
			Involuntary Inactive Enrollment	
		Chapter 4	Proceedings - Bus. & Prof.	<p>Rule 5.205 - change "a member" to "an attorney."</p> <p>Rule 5.206 - change "member" to "attorney" and "member's" to "attorney's" in two places.</p> <p>Rule 5.207 - change "member" to "attorney" in four places, "member's" to "attorney's" in two places, and "a member's" to "an attorney's."</p> <p>Rule 5.208 - change "member" to "attorney" in three places and "member's" to "attorney's" in two places.</p> <p>Rule 5.209 - change "member's" to "attorney's" in four places.</p> <p>Rule 5.210 - change "member" to "attorney," "member's" to "attorney's," and "a member's" to "an attorney's."</p>
			Involuntary Inactive Enrollment	
		Chapter 5	Proceedings - Bus. & Prof.	<p>Rule 5.215 - change "member" to "attorney" and "a member" to "an attorney."</p>

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Rule 5.216 - change "member" to "attorney" in two places.
				Rule 5.217 - change "member" to "attorney" in two places.
				Rule 5.219 - change "member" to "attorney" and "a member" to "an attorney."
Chapter 6	Involuntary Inactive Enrollment Proceedings - Bus. & Prof.		Rule 5.225 - change "member's" to "attorney's" in two places and "a member" to "an attorney."	
			Rule 5.226 - change "member" to "attorney" in four places and "member's" to "attorney's" in three places.	
			Rule 5.227 - change "member" to "attorney" in three places and "member's" to "attorney's."	
			Rule 5.228 - change "member" to "attorney" and "member's" to "attorney's."	
			Rule 5.230 - change "member's" to "attorney's" in two places.	
			Rule 5.231 - change "member" to "attorney" in three places.	
			Rule 5.236 - change "member" to "attorney" in two places.	
			Rule 5.237 - change "member" to "attorney" in three places and "member's" to "attorney's" in two places.	
Chapter 7	Involuntary Inactive Enrollment Proceedings - Bus. & Prof.		Rule 5.240 - change "member" to "attorney" and "a member" to "an attorney."	
			Rule 5.241 - change "member's" to "attorney's" in two places.	
			Rule 5.242 - change "member" to "attorney" and "member's" to "attorney's."	
			Rule 5.243 - change "member" to "attorney" in two places and "member's" to "attorney's."	
Chapter 8	Involuntary Inactive Enrollment Proceedings - Bus. & Prof.		Rule 5.250 - change "member" to "attorney" in four places and "member's" to "attorney's" in three places.	
			Rule 5.251 - change "member" to "attorney" in six places, "member's" to "attorney's" in two places, and "a member's" to "an attorney's" in two places.	

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
			Involuntary Inactive Enrollment	Rule 5.252 - change "a member's" to "an attorney's."
		Chapter 9	Proceedings - Bus. & Prof.	Rule 5.256 - change "member's" to "attorney's." Rule 5.258 - change "member" to "attorney" in three places, "member's" to "attorney's" in two places, and "a member" to "an attorney."
				Rule 5.260 - change "member's" to "attorney's."
			Involuntary Inactive Enrollment	Rule 5.262 - change "member" to "attorney" and "member's" to "attorney's."
		Chapter 10	Proceedings - Change or Probation Proceedings -	Rule 5.273 - change "member's" to "attorney's."
Division 5	Chapter 1		Probation Modification and Probation Proceedings -	Rule 5.300 - change "member" to "attorney" in two places and "member's" to "attorney's."
	Chapter 2		Probation Revocation	Rule 5.310 - change "member's" to "attorney's" and "a member" to "an attorney." Rule 5.314 - change "member" to "attorney" in six places.
				Rule 5.315 - change "member" to "attorney."
Division 6	Chapter 1		Special Proceedings - Rule 9.20 Proceedings	Rule 5.330 - change "member" to "attorney." Rule 5.331 - change "a member" to "an attorney" in two places. Rule 5.333 - change "member" to "attorney." Rule 5.334 - change "a member" to "an attorney." Rule 5.335 - change "member" to "attorney." Rule 5.336 - change "member" to "attorney."
		Chapter 2	Special Proceedings - Conviction Proceedings	Rule 5.340 - change "a member's" to "an attorney's."

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Rule 5.341 - change "member" to "attorney."
				Rule 5.342 - change "member" to "attorney" and "a member" to "an attorney" in two places.
				Rule 5.343 - change "member's" to "attorney's" in two places.
				Rule 5.344 - change "a member" to "an attorney."
				Rule 5.345 - change "member" to "attorney" in two places and "member's" to "attorney's."
				Rule 5.346 - change "member" to "attorney" in two places, "member's" to "attorney's," and "a member" to "an attorney."
			Special Proceedings -	
Chapter 3			Proceedings Based on	Rule 5.351 - change "member" to "attorney" in four places.
			Special Proceedings - Fee	Rule 5.360 - change "member" to "attorney" and "a member" to "an attorney" in three places.
Chapter 4			Arbitration Award Enforcement	
			Special Proceedings -	
Chapter 5			Alternative Discipline Program	Rule 5.380 - change "a member" to "an attorney."
				Rule 5.381 - change "member" to "attorney," "member's" to "attorney's" in two places, and "a member" to "an attorney."
				Rule 5.382 - change "member" to "attorney" in seven places, "member's" to "attorney's" in four places, and "a member" to "an attorney" in two places.
				Rule 5.383 - change "member" to "attorney" in two places and "member's" to "attorney's."
				Rule 5.384 - change "member" to "attorney" in ten places, "member's" to "attorney's" in five places, and "a member" to "an attorney."
				Rule 5.385 - change "member" to "attorney" in three places and "a member" to "an attorney" in two places.
				Rule 5.386 - change "member" to "attorney" in eight places and "member's" to "attorney's" in three places.
				Rule 5.387 - change "member" to "attorney" and "a member" to "an attorney."
				Rule 5.388 - change "member" to "attorney" in three places, "member's" to "attorney's" in four places, and "a member" to "an attorney."

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
		Chapter 6	Special Proceedings - Legal Specialization Proceedings	<p>Rule 5.389 - change "member" to "attorney" in three places and "a member" to "an attorney."</p> <p>Rule 5.390 - change "a member" to "an attorney."</p> <p>Rule 5.391 - change "member" to "attorney" and "a member's" to "an attorney's."</p> <p>Rule 5.392 - change "member" to "attorney."</p> <p>Rule 5.396 - change "member" to "attorney."</p> <p>Rule 5.398 - change "member" to "attorney."</p>
Division 7	Chapter 1		Regulatory Proceedings - Proceedings to Demonstrate	NO CHANGES
	Chapter 2		Regulatory Proceedings - Resignation Proceedings	<p>Rule 5.420 - change "member" to "attorney" in two places.</p> <p>Rule 5.421 - change "member's" to "attorney's" in two places.</p> <p>Rule 5.422 - change "member's" to "attorney's."</p> <p>Rule 5.423 - change "member" to "attorney."</p> <p>Rule 5.424 - change "member" to "attorney" in two places and "member's" to "attorney's."</p> <p>Rule 5.425 - change "member's" to "attorney's."</p> <p>Rule 5.427 - change "member" to "attorney" in five places, "member's" to "attorney's" in six places, and "a member" to "an attorney."</p>
	Chapter 3		Regulatory Proceedings - Reinstatement Proceedings Regulatory Proceedings - Moral	Rule 5.440 - change "to membership in" to "of license with."
	Chapter 4		Character Proceedings	NO CHANGES

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<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
TITLE 6			Governance	
	Division 1	Chapter 1	Board of Trustees - Election of Trustees	Rule 6.1 - rule deleted as it concerns elections Rule 6.2 - rule deleted as it concerns elections. Rule 6.3 - rule deleted as it concerns elections. Rule 6.4 - rule deleted as it concerns elections. Rule 6.5 - rule deleted as it concerns elections. Rule 6.6 - rule deleted as it concerns elections. Rule 6.7 - rule deleted as it concerns elections. Rule 6.8 - rule deleted as it concerns elections.
		Chapter 2	Board of Trustees - General Authority of the Board	Rule 6.21(C) - change "members" to "licensees."
		Chapter 3	Board of Trustees - State Bar Districts	Rule 6.30 - rule deleted as it concerns elections. Rule 6.31 - rule deleted as it concerns elections.
		Chapter 4	Board of Trustees - Responsibilities of Officers	NO CHANGES
TITLE 6	Division 2	Chapter 1	Meetings - Meetings of the Board of Trustees	Rule 6.57 - repeal
		Chapter 2	Meetings - Meetings of State Bar Committees	Rule 6.66 - repeal
TITLE 6	Division 3		Conflicts of Interest [Reserved]	N/A
TITLE 6	Division 4		Miscellaneous - Offices of the State Bar (Rule 6.91)	NO CHANGES

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
			Miscellaneous - Meetings Of The State Bar (Article V)	<p>Entire document - Formatting and font changes made to conform to all other divisions.</p> <p>Title - remove duplicative header "Article V. Meetings of the State Bar"</p> <p>Section 1 - change "Governors" to "Trustees."</p> <p>Section 2 - change "members" to "licensees."</p> <p>Section 3(A)(1) - change "Governors" to "Trustees."</p> <p>Section 3(A)(2) - change "Governors" to "Trustees."</p> <p>Section 3(A)(3) - change "members" to "licensees."</p> <p>Section 3(B) - change "member" to "licensee;" change "Governors" to "Trustees;" change "members" to "licensees."</p> <p>Section 3(C) - change "Governors" to "Trustees."</p> <p>Section 4 - change "members" to "licensees."</p> <p>Section 5 - change "members" to "licensees" in three places; change "Governors" to "Trustees."</p> <p>Section 6 - change "Governors" to "Trustees."</p> <p>Section 7 - change "Governors" to "Trustees" in three places; change "members" to "licensees" in two places.</p> <p>Footer - remove "05/16/08."</p>
TITLE 6	Division 4		Miscellaneous - Referendum To Entire Membership (Article IX)	<p>Entire document - Formatting and font changes made to conform to all other divisions.</p> <p>Title - change "Entire Membership" to "All Licensees."</p> <p>Title - remove duplicative header "Article IX. Referendum to the Entire Membership."</p>

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				Section 1 - change "by all licensees" to "by all members"; change "member" to "member or
				membership" to "by all licensees" in two places; change "member" to "licensee" in two
				places.
				Footer - remove "05/16/08."
TITLE 7			Miscellaneous Provisions	
	Division 1		Commission on Judicial Nominees Evaluation	
		Chapter 1	General Provisions	Rule 7.2(A) - change "members" to "licensees."
				Rule 7.2(B) - change "members" to "licensees."
		Chapter 3	Procedures	Rule 7.40(A) - change "member" to "licensee."
				Rule 7.66(A) - change "member" to "licensee."
TITLE 7	Division 2		Special Master Rules	Title - change formatting of "Division 2. Special Masters" title
				Rule 7.101(B)(1) - change "member" to "licensee."
				Rule 7.101(C)(1) - change "member" to "licensee."
APPENDIXES				
	A		Schedule of Charges and Deadlines - Add "License" to title; Rule 2.11 - add "license" in two places; Rule 2.13 - add "license;" Annual Fees	footnote 2 - change "dues" to "fees."
	A		Registered Legal Services Attorneys	Rule 3.362(A)(1) - change "membership" to "license;" change "member" to "licensee."
				Rule 3.364(A)(1) - change "member" to "licensee."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
	A	Registered In-House Counsel	Rule 3.372(A) - change "membership" to "license;" change "member" to "licensee."	
			Rule 3.374(A)(1) - change "member" to "licensee."	
	A	Foreign Legal Consultants	Rule 3.402(A) - change "membership" to "license;" change "member" to "licensee."	
			Rule 3.408(A)(1) - change "member" to "licensee."	
	A	Table of Elections Deadlines	REMOVE THIS TABLE ALTOGETHER - there are no longer elections.	
	B	Miscellaneous	REMOVE THIS APPENDIX and change to "[RESERVED]"	
	C	Challenge to Mandatory Licensing Fees	NO CHANGES	

TITLE

III

General Provisions

Division I

State Bar Court

NO CHANGES

Division II

Chief Trial Counsel

Chief Trial Counsel - Chief Trial

State Bar Note - change "members" to "attorneys" in two places.

Chapter 1

Counsel

NO CHANGES

Chief Trial Counsel - Special

Chapter 2

Deputy Trial Counsel

Rule 2201 - change "member" to "attorney" in three places, "a member" to "an attorney" in three places, and "members" to "attorneys."

Rule 2201(a)(1)(iv). - change "An attorney member of the executive committee of any State Bar section, committee or commission" " to "An attorney member of any State Bar committee or commission"

Chapter 3

Chief Trial Counsel -

Confidentiality

State Bar Note - change "member" to "attorney."

Rule 2302 - change "member" to "attorney" in 5 places, "member's" to "attorney's" in 2 places, "a member" to "an attorney" in 4 places, "non-members" to "nonattorneys" in 2 places, "membership" to "license," "a member(s)" to "an attorney(s)," "member(s)" to "attorney(s)" in 2 places, and "non-member(s)" to "nonattorney(s)."

Chapter 4

Chief Trial Counsel -

Investigations

Rule 2401 - change "a member" to "an attorney."

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
				<p>Rule 2402 - change "a member" to "an attorney."</p> <p>Rule 2403 - change "member" to "attorney" in three places.</p> <p>Rule 2404 - change "a member" to "an attorney" and "members" to "attorneys."</p> <p>Rule 2406 - change "member" to "attorney" and "a member" to "an attorney."</p> <p>Rule 2408 - change "member" to "attorney" and "members" to "attorneys."</p> <p>five places, and "a member" to "an attorney."</p> <p>Rule 2410 - change "member" to "attorney" in three places and "a member" to "an attorney" in three places.</p>
		Chapter 5	Chief Trial Counsel - Subpoenas and Depositions	<p>State Bar Note - change "member's" to "attorney's" and "non-member's" to "nonattorney's."</p> <p>Rule 2502 - change "member" to "attorney" and "members" to "attorneys."</p> <p>Rule 2503 - change "member" to "attorney" in five places, "member's" to "attorney's" in three places, and "a member" to "an attorney."</p>
		Chapter 6	Chief Trial Counsel - Disposition of Inquiries, Complaints and Investigations	<p>Rule 2602 - change "member" to "attorney" in four places.</p> <p>Rule 2604 - change "member" to "attorney" and "a member" to "an attorney."</p>
Division III			Office of Probation	<p>Rule 2701 - change "members" to "attorneys."</p> <p>Rule 2702 - change "member" to "attorney" in three places, "member's" to "attorney's," and "a member" to "an attorney."</p>
Division IV	Chapter 1		Disqualification and MCLE Credit - Disqualification Disqualification and MCLE Credit - Minimum Continuing	NO CHANGES
	Chapter 2		Legal Education Credit Provisions Applicable to Various Proceedings Provisions Applicable to Various Proceedings -	<p>Rule 3201 - change "member's" to "attorney's" and "a member" to "an attorney."</p> <p>State Bar Note - change "member" to "attorney" and "a member" to "an attorney" in two places.</p>
Division V	Chapter 1		Discipline Audit Panel	NO CHANGES

RULES OF THE STATE BAR OF CALIFORNIA AND RULES OF PROCEDURE

<i>TITLE</i>	<i>Division</i>	<i>Chapter</i>	<i>Rule</i>	<i>Amendments and Corrections</i>
			Provisions Applicable to Various Proceedings - Lawyer	
		Chapter 2	Referral Service Proceedings	NO CHANGES
			Provisions Applicable to Various Proceedings - Legal Services Trust Fund	
		Chapter 3	Proceedings	Rule 4304 - change "member" to "attorney."
			Provisions Applicable to Various Proceedings - Rules for Administration of the State Bar Alternative Dispute Resolution Client-Attorney Mediation Program (ADRCAMP)	
		Chapter 4		NO CHANGES

TITLE 1. GLOBAL PROVISIONS

Adopted July 2007

Division 1. What these rules are

Division 2. Public comment

Division 3. Reading and applying the rules

DIVISION 1. WHAT THESE RULES ARE

Rule 1.1 Rules of the State Bar of California

These rules are entitled the Rules of the State Bar of California and have been adopted by the Board of Trustees of the State Bar of California, unless otherwise indicated.

Rule 1.1 adopted effective July 20, 2007; amended effective January 1, 2012.

Rule 1.2 Authority

The State Bar of California is established for governmental purposes under the authority of the Constitution of the State of California at article VI, section 9. The State Bar acts as the administrative arm of the California Supreme Court in all matters related to attorney admission and discipline in California. Subject to the laws of the state, the Board of Trustees of the State Bar of California may adopt rules and procedures to implement California statutes¹ and court rules and to govern the State Bar.

Rule 1.2 adopted effective July 20, 2007; amended effective January 1, 2012.

Rule 1.3 Scope

The rules of the State Bar of California concern

- (A) the rights and responsibilities of its ~~members~~licensees and prospective ~~members~~licensees;
- (B) its programs and services and the requirements for participating in or using them;
- (C) its governance; and
- (D) its relationships with other entities or individuals.

Rule 1.3 adopted effective July 20, 2007.

¹ Business & Professions Code § 6025.

Rule 1.4 Exclusions

The rules of the State Bar do not include

- (A) Rules of the Supreme Court of California or California Rules of Court that apply to the State Bar, its ~~members~~licensees, services, or programs;
- (B) statutes or case law applicable to the State Bar, its licensees~~members~~, services, or programs; or
- (C) policies and procedures that relate to the internal management or operations of the State Bar.

Rule 1.4 adopted effective July 20, 2007.

Rule 1.5 Contents of the Rules of the State Bar of California

The Rules of the State Bar of California include:

- (A) Title 1. Global Provisions,
- (B) Title 2. Rights and Responsibilities of ~~Members~~Licensees,
- (C) Title 3. Programs and Services,
- (D) Title 4. Admissions and Educational Standards,
- (E) Title 5. Discipline,
- (F) Title 6. Governance,
- (G) Title 7. Miscellaneous Provisions,
- (H) California Rules of Professional Conduct, and
- (I) Appendixes to the rules.

Rule 1.5 adopted effective July 20, 2007; amended effective March 2, 2012.

DIVISION 2. PUBLIC COMMENT

Rule 1.10 Public comment

- (A) Proposals for the Rules of the State Bar of California are circulated for public comment before adoption, amendment, or repeal by the Board of Trustees. The State Bar also makes available for public comment its proposals for the California Rules of Court. Proposals are circulated for a forty-five day period, which can be shortened to a minimum of 30 days or extended to a maximum of 90 days, as designated by the board.
- (B) Public comment is not required
 - (1) to correct clerical errors; clarify grammar; improve organization; conform to specific changes in a law; update references or citations; or make similar editorial changes;
 - (2) to modify a proposal that has been circulated for public comment when the board deems the modification non-substantive or reasonably implicit in the proposal; or
 - (3) to add or modify an appendix to these rules.
- (C) The board may determine that an emergency requires it to adopt, amend, or suspend a rule on an interim basis without first circulating it for public comment. No interim measure may remain in effect for more than 120 days.
- (D) The adoption, amendment, or repeal of a rule becomes effective as of the date specified by the board. If it specifies no date, the date of its action is the effective date.

Rule 1.10 adopted effective July 20, 2007; amended effective March 7, 2008; amended effective January 1, 2012.

Rule 1.11 Availability of public comments

Public comment provided to the board regarding a rule proposal is available upon request, subject to a reasonable charge for copies.

Rule 1.11 adopted effective July 20, 2007; amended effective November 18, 2016.

DIVISION 3. READING AND APPLYING THE RULES

Rule 1.20 Construction

The following constructions apply to all the rules unless a title or a rule indicates otherwise.

- (A) Each tense (past, present, or future) includes the others.
- (B) Each gender (masculine, feminine, or neuter) includes the others.
- (C) Each number (singular or plural) includes the other.
- (D) A rule that is invalid in part is not otherwise invalid.
- (E) A rule must be read as a whole. A word or phrase that can have more than one meaning should be interpreted in context.
- (F) Once a rule has defined a term, the definition is implicit in related rules that use the term.
- (G) If a rule refers to only one or more things of a particular class, it excludes all other members of the class.
- (H) A rule is not retrospective unless it specifically says it is.
- (I) A rule is automatically repealed when it sunsets unless it is extended by amendment.
- (J) Headings and notes are not parts of rules but may assist in the interpretation of rules.
- (K) If a rule cites the authority for the rule, the citation is part of the rule.
- (L) If a rule refers to the Schedule of Charges and Deadlines, the referenced date or amount is part of the rule.

Rule 1.20 adopted effective July 20, 2007.

Rule 1.21 Usage

As used in the rules:

- (A) “must” is mandatory;
- (B) “may” is permissive;

- (C) “may not” means not permitted to;
- (D) “will” expresses a future contingency or predicts action in the ordinary course of events, but does not signify a mandatory duty; and
- (E) “should” expresses a preference or a nonbinding recommendation.

Rule 1.21 adopted effective July 20, 2007.

Rule 1.22 Definitions

Unless otherwise indicated, the following definitions apply to these rules.

- (A) “Board of Trustees” or “board” is the body established by statute to govern the State Bar.² Any reference in these rules to “Board of Governors” means “Board of Trustees.”
- (B) “Executive director” is the chief executive officer of the State Bar who is responsible for day-to-day operation of the State Bar.
- | (C) “~~Members~~Licensees” are all persons admitted and licensed to practice law in California except justices and judges of courts of record during their continuance in office.³
- (D) “Secretary” is the secretary of the State Bar or his or her designee.
- (E) The “Schedule of Charges and Deadlines” is the current schedule adopted by the Board of Trustees that specifies by rule number and title any amount that must be paid and the date for paying it or otherwise taking an action required to comply with a rule.
- (F) The “State Bar Act” is Chapter 4, Article 1 of the Business & Professions Code, commencing at § 6000.
- (G) “State Bar Web site” means the Web site established by the State Bar of California at <http://calbar.ca.gov>.

Rule 1.22 adopted effective July 20, 2007; amended effective January 1, 2012.

² Business & Professions Code § 6010.

³ Business & Professions Code § 6002.

Rule 1.23 Dates

The date for performing an act required by these rules is computed by excluding the first day and including the last, unless the State Bar is closed the last day. The State Bar is closed on Saturdays, Sundays, and legal holidays.

Rule 1.23 adopted effective July 20, 2007.

Rule 1.24 Forms

When a rule refers to a form, the State Bar reserves the right to reject a form that is altered in language or structure or that is not completed and submitted according to instructions.

Rule 1.24 adopted effective July 20, 2007.

Rule 1.25 Citation

A title in these rules may be cited by its number or by its number and name. Unless otherwise specified, a rule of the State Bar of California should be cited as “State Bar of California Rule” or “State Bar Rule” and the numbers of the title and rule separated by a period. For instance, this rule may be cited as either “State Bar of California Rule 1.25” or as “State Bar Rule 1.25.”

Rule 1.25 adopted effective July 20, 2007.

TITLE 2. RIGHTS AND RESPONSIBILITIES OF ~~MEMBERS~~LICENSEES

Adopted July 2007

DIVISION 1. ~~MEMBER~~LICENSEE RECORD

Rule 2.1 Roll of attorneys

The State Bar maintains, on the official ~~membership~~-licensee records of the State Bar, the roll of all attorneys admitted to practice in California.¹

Rule 2.1 adopted effective June 17, 2006.

Rule 2.2 Public information

A ~~member~~-licensee record contains public information, including the following:

- (A) last name, first name, and any middle names;
- (B) State Bar ~~member~~-license number;
- (C) address and telephone number;
- (D) e-mail address;
- (E) date of admission in California;
- (F) places and dates of admission in any other jurisdictions;
- (G) ~~membership~~-license status;
- (H) date of any transfer from one ~~membership~~-license status to another;
- (I) date and period of any discipline; and
- (J) any other information as directed by the Supreme Court or otherwise required by law.

Rule 2.2 adopted effective June 17, 2006; amended effective March 10, 2017.

Rule 2.3 Duty to update ~~member~~-licensee record

- (A) A ~~member~~-licensee must inform the State Bar of a change of address, telephone number, or e-mail address no later than thirty days after making the change. The ~~member~~-licensee must report a change of address or telephone number online or

¹ California Rule of Court, Rule ~~9.6~~9.8.

using the State Bar Address Change Form. The ~~member~~licensee must make a change of e-mail address online.

- (B) A ~~member~~licensee must inform the State Bar of a change of name no later than thirty days after making the change. The ~~member~~licensee must report the change using the State Bar Name Change Form.

Rule 2.3 adopted effective June 17, 2006.

Rule 2.4 Confidential treatment of address history

Every ~~member~~licensee must maintain with the State Bar a non-confidential current address,² but upon the request of a ~~member~~licensee, the State Bar will not publicly disclose a ~~member's~~licensee's prior address.

Rule 2.4 adopted effective July 20, 2007.

² Business and Professions Code § 6002.1(a)(1).

TITLE 2. RIGHTS AND RESPONSIBILITIES OF ~~MEMBERS~~LICENSEES

Adopted July 2007

DIVISION 2. ANNUAL ~~MEMBERSHIP~~LICENSE FEES AND PENALTIES

Rule 2.10 Definitions

- (A) “Annual ~~membership~~license fees” are those fees that any ~~member~~licensee must pay to maintain active or inactive ~~membership~~status in a calendar year. These fees may include additional assessments and costs prescribed by law.¹
- (B) “Penalties” are the surcharges assessed any ~~member~~licensee who fails to pay annual ~~membership~~license fees on time.

Rule 2.10 adopted effective June 17, 2006.

Rule 2.11 Due date

A ~~member~~licensee must pay the annual ~~membership~~license fees set forth in the Schedule of Charges and Deadlines each calendar year no later than February 1.

Rule 2.11 adopted effective June 17, 2006.

Rule 2.12 New ~~members~~licensees

A new ~~member~~licensee must be enrolled as active and pay initial fees within forty-five days of the invoice date for the fees as follows:

- (A) full annual ~~membership~~license fees if admitted between January 1 and May 31;
- (B) half the annual ~~membership~~license fees if admitted between June 1 and November 30;
- (C) the administrative fee for admission set forth in the Schedule of Charges and Deadlines if admitted in December.

Rule 2.12 adopted effective June 17, 2006; amended effective July 20, 2007.

Rule 2.13 Late payment penalties

Late payment of annual ~~membership~~license fees is subject to the penalties set forth in the Schedule of Charges and Deadlines.

Rule 2.13 adopted effective June 17, 2006.

¹ Business & Professions Code §§ 6140.5, 6140.7.

Rule 2.14 No refund

Unless these rules provide otherwise, a ~~member~~-licensee is not entitled to a refund of annual ~~membership~~-license fees because of death, resignation, disbarment, transfer to inactive status, entering judicial office, or for any other reason.

Rule 2.14 adopted effective June 17, 2006.

Rule 2.15 Scaling

(A) An active ~~member~~-licensee who has a total gross annual individual income from all sources of less than \$40,000 may request a 25% reduction of annual ~~membership~~-license fees. The request must be submitted by the date set forth in the Schedule of Charges and Deadlines and include

- (1) the Active ~~Member~~-Licensee Fee Scaling Declaration signed under penalty of perjury; and
- (2) payment of the reduced fee.

New ~~members~~-licensees admitted after May 31 do not qualify for scaling.

(B) An employer that receives State Bar Legal Services Trust Fund grants and is a qualified legal services project or qualified support center as defined by statute² may request a reduction of annual ~~membership~~-license fees by 25% for an active ~~member~~-licensee employed on a continuous full-time basis or an active ~~member~~-licensee employed on at least a half-time basis who has no income from other employment related to the practice of law. The request must be submitted by the date set forth in the Schedule of Charges and of Deadlines and include

- (1) the Qualified Employer Fee Scaling Declaration signed under penalty of perjury that the employer is qualified and pays annual ~~membership~~-license fees on the ~~member's~~-licensee's behalf; and
- (2) payment of the reduced fee.

(C) ~~Members~~-Licensees who scale are subject to audit and upon request must provide the State Bar with past federal and state income tax returns or other acceptable documentation of financial condition.

(D) If the State Bar determines that a ~~member~~-licensee is ineligible to scale, the ~~member~~-licensee must pay full annual ~~membership~~-license fees and any late payment penalties.

² Business & Professions Code § 6210 et seq.

Rule 2.15 adopted effective June 17, 2006; amended effective July 20, 2007; amended effective November 15, 2013.

Rule 2.16 Waivers

- | (A) In this rule, “annual ~~membership~~-license fees” and “penalties” are construed narrowly and do not include
 - (1) disciplinary costs³ or monetary sanctions,⁴
 - (2) Client Security Fund disbursements and costs,⁵
 - (3) mandatory fee arbitration award penalties and costs,⁶
 - (4) Minimum Continuing Legal Education (“MCLE”) noncompliance or reinstatement penalties, or
- | (5) any other charges that may be added to annual ~~membership~~-license fees for failure to comply with obligations imposed by court order, statute, or rule.
- (B) To be considered for the current year, a request must be submitted by February 1. Requests submitted after February 1 must be accompanied by full payment of any outstanding charges, which will be refunded if the request is granted.
- | (C) The Secretary may waive up to \$1,000 in annual ~~membership~~-license fees and related penalties for the year in which they are due, provided that the request is
 - (1) in writing;
 - (2) supported by satisfactory documentation; and
 - (3) for any of the following reasons:
 - | (a) the ~~member~~-licensee serves full-time as a magistrate, commissioner, or referee for a state or federal court of record;
 - | (b) the ~~member~~-licensee is a retired judge who accepts assignments from the Chief Justice of California to act in a judicial capacity at least 90% of the calendar year; or

³ Business and Professions Code § 6086.10.

⁴ Business and Professions Code § 6086.13.

⁵ Business and Professions Code § 6140.5.

⁶ Business and Professions Code § 6203(d)(3).

- (c) the ~~member~~ licensee has a total gross annual household income from all sources of \$20,000 or less, in which case the waiver is 50% of annual ~~membership~~ license fees.
- (D) The Secretary may waive annual ~~membership~~ license fees and related penalties for a ~~member~~ licensee serving in the Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, or the Coast Guard Reserve provided that
 - (1) the ~~member~~ licensee has been ordered to report to full-time active duty for more than thirty days;
 - (2) a request for waiver is submitted in writing by the licensee ~~member~~, licensee's ~~member's~~ spouse, relative, law partner or associate, or legal representative and accompanied by:
 - (a) a copy of the order to report for active duty, or
 - (b) a copy of the order to report for active duty and a certified declaration by a JAG officer that the licensee ~~member~~ has served on active duty for more than thirty days.
- A licensee ~~member~~ granted a waiver under this rule must notify the State Bar within thirty days upon termination of the assignment to active duty.
- (E) Annual ~~membership~~ license fees are waived for the year in which a judicial officer leaves office and returns to ~~membership~~ active status in the State Bar.
- (F) Annual ~~membership~~ license fees are waived for licensees on inactive status ~~members~~ who are 70 years of age on February 1.
- (G) Annual ~~membership~~ license fees may be waived for a licensee ~~member~~ who is enrolled in the Pro Bono Practice Program.⁷
- (H) The board reserves the right for good cause
 - (1) to grant requests for waivers denied by the Secretary; and
 - (2) to consider all other requests for waivers.
- (I) A waiver granted under this rule does not remove a court-ordered suspension for nonpayment of fees or penalties.

⁷ See Rules 3.325-3.330

Rule 2.16 adopted effective June 17, 2006; amended effective July 20, 2007; amended effective July 17, 2009; amended effective July 22, 2011; amended effective March 2, 2012; amended effective July 20, 2012.

Rule 2.17 Keller deductions and challenges

- (A) Keller v. State Bar of California (1990) 496 U.S. 1 prohibits the State Bar from charging ~~licensees~~~~members~~ for State Bar expenses for lobbying and certain other activities deemed political and ideological and unrelated to the Bar's permissible goals. California law authorizes ~~members~~~~licensees~~ to take a deduction for lobbying activities.⁸ The Board of Trustees may also identify each year additional deductions that it deems to be outside the scope of Keller. The State Bar restricts its spending on lobbying and other activities it deems outside the scope of Keller to fees paid voluntarily by ~~members~~~~licensees~~ not taking the deductions. The deductions and the Bar's most recent audited expenses charged to mandatory ~~membership~~~~license~~ fees are published as a Statement of Expenditures of Mandatory ~~Membership~~~~License~~ Fees on the State Bar Web site when the State Bar mails invoices for annual ~~membership~~~~license~~ fees. Notice is also provided in the California Bar Journal and ~~members~~~~licensees~~ may request a copy of the statement by mail.
- (B) ~~Members~~~~Licensees~~ who believe that the annual Statement of Expenditures of Mandatory ~~Membership~~~~License~~ Fees inappropriately includes an expenditure disallowed by Keller may object to the expenditure. The objection must be filed using the Challenge to Mandatory ~~Membership~~~~License~~ Fees. The board may allow the objection or promptly refer it to arbitration. Filing an objection does not relieve a ~~member~~~~licensee~~ of the obligation of paying the invoiced annual mandatory ~~membership~~~~license~~ fees on time.
- (C) For purposes of this rule, "arbitration" means that the State Bar will refer the challenge to an arbitrator selected by the American Arbitration Association. The State Bar may consolidate multiple challenges. The arbitration procedure is specified in the instructions to the Challenge to Mandatory ~~Membership~~~~License~~ Fees.
- (D) If an arbitrator determines that a challenged expense is outside the scope of Keller and is allowable as a deduction, the State Bar will refund the amount of the deduction to any public agency that has paid the amount on behalf of a ~~member~~~~licensee~~.

Rule 2.17 adopted effective July 20, 2007; amended effective January 1, 2012.

Rule 2.18 Payment by credit card, debit card, or electronic funds transfer

⁸ Business and Professions Code § 6140.05.

The State Bar is authorized to charge ~~members~~ licensees who choose to pay annual ~~membership~~ license fees by credit card, debit card, or electronic funds transfer an additional fee to defray the costs incurred by that election. The State Bar's Executive Director or his or her designee is authorized to set the amount of any additional fee the State Bar is authorized to charge ~~members~~ licensees under this rule.

Rule 2.18 adopted effective December 6, 2016.

TITLE 2. RIGHTS AND RESPONSIBILITIES OF ~~MEMBERS~~LICENSEES

Adopted July 2007

DIVISION 3. ~~MEMBER~~LICENSEE STATUS

Rule 2.30 Inactive ~~membership~~status

- (A) Any ~~member~~licensee not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request,¹ be enrolled as an inactive ~~member~~licensee. The Secretary may, in any case in which to do otherwise would work an injustice and subject to any direction of the board permit retroactive enrollment of inactive ~~members~~licensees.
- (B) No ~~member~~licensee practicing law, or occupying a position in the employ of or rendering any legal service for an active ~~member~~licensee, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive ~~member~~licensee.
- (C) Notwithstanding (A) and (B) a ~~member~~licensee serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive ~~member~~licensee if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.

Rule 2.30 adopted effective August 19, 2006; amended effective July 20, 2007.

Rule 2.31 Change of ~~membership~~license status

- (A) A ~~member~~licensee may apply to change from active to inactive status or vice versa by submitting the Transfer to Active Status Form or the Transfer to Inactive Status Form with the transfer fee indicated in the Schedule of Charges and Deadlines. A change to inactive by February 1 entitles the ~~member~~licensee to pay the annual fees of an inactive ~~member~~licensee. A change to inactive after that date is permissible, but the ~~member~~licensee must pay annual fees at the active rate and is not entitled to a refund because of the change to inactive status.
- (B) While suspended, a ~~member~~licensee cannot change ~~membership~~license status.

Rule 2.31 adopted effective June 17, 2006; amended effective July 20, 2007.

¹ Rule 2.31(A).

Rule 2.32 Inactive enrollment for failure to comply with Minimum Continuing Legal Education (MCLE) requirements

- (A) A ~~member~~-licensee who fails to meet requirements for Minimum Continuing Legal Education (MCLE) will be involuntarily enrolled as inactive.
- (B) To terminate inactive enrollment for MCLE noncompliance, a ~~member~~-licensee must comply with the MCLE rules governing reinstatement.²
- (C) Annual ~~membership~~-license fees accrue at the inactive rate.

Rule 2.32 adopted effective June 17, 2006; amended effective July 20, 2007.

Rule 2.33 Suspension for failure to pay annual ~~membership~~-license fees and outstanding penalties or costs

- (A) A ~~member~~-licensee who fails to pay annual ~~membership~~-license fees or any outstanding penalties or costs will be sent a final delinquency notice at the ~~member's~~-licensee's address of record. If the State Bar fails to receive full payment of the amount due within two months of sending the final delinquency notice, the State Bar will recommend that the Supreme Court suspend the ~~member~~-licensee from the practice of law.³
- (B) Annual ~~membership~~-license fees accrue according to the ~~member's~~-licensee's status prior to suspension.
- (C) To terminate suspension for nonpayment, a ~~member~~-licensee must pay
 - (1) all current and accrued fees, penalties, and costs; and
 - (2) the reinstatement fee set forth in the Schedule of Charges and Deadlines.

The payment must be made by a credit card accepted by the State Bar, in cash, or by cashier's check, money order, bank certified check, or wire transfer.

- (D) The State Bar will seek by an amendment nunc pro tunc to retroactively strike the name of a ~~member~~-licensee from the Supreme Court Order of Suspension for Nonpayment if the suspension resulted from State Bar error.
- (E) Annually the State Bar may recommend that the Supreme Court expunge a suspension for nonpayment of ~~membership~~-license fees if the suspension meets the criteria adopted by the court.⁴

² See Rule 2.93.

³ Business and Professions Code § 6143.

⁴ California Rules of Court, Rule 9.~~86~~-(b).

Rule 2.33 adopted effective June 17, 2006; amended effective July 20, 2007; section (E) adopted effective July 20, 2007.

Rule 2.34 Suspension for failure to comply with a family or child support obligation

- (A) A ~~member~~-licensee identified under the terms of Family Code § 17520 as failing to comply with a judgment or court order for child or family support will be suspended from the practice of law by the Supreme Court.⁵
- (B) The State Bar will send a written notice of suspension for failure to pay child or family support to the ~~member's~~-licensee's address of record. The suspension will be effective on the date ordered by the Supreme Court.
- (C) The State Bar will ask the Supreme Court to reinstate a ~~member~~-licensee if it receives statutory notice⁶ that the obligation has been discharged, if the ~~member~~-licensee submits a declaration under penalty of perjury stating whether the ~~member~~-licensee practiced law during the suspension and if the ~~member~~-licensee has paid any surcharge authorized by statute.⁷
- (D) If a reinstated licensee-~~member~~ subsequently fails to comply with a judgment or court order for child or family support,⁸ the State Bar will request that the Supreme Court suspend the licensee-~~member~~ within thirty days and will send written notice of its request to the licensee's-~~member's~~ address of record.
- (E) Annual ~~membership~~-license fees accrue according to the licensee's-~~member's~~ status prior to suspension.

Rule 2.34 adopted effective June 17, 2006; amended effective July 20, 2007; amended effective January 17, 2014.

Rule 2.35 Suspension for disciplinary violations

A licensee-~~member~~ on actual rather than stayed suspension for disciplinary violations for part of a year must pay full annual ~~membership~~-license fees. Annual ~~membership~~-license fees do not accrue during periods of suspension that last an entire year.

Rule 2.35 adopted effective June 17, 2006; amended effective July 20, 2007.

Rule 2.36 Suspension for failure to pay state taxes

⁵ California Rules of Court, Rule 9.22.

⁶ Family Code § 17520.

⁷ California Rules of Court, Rule 9.22; Family Code § 17520(n).

⁸ Family Code § 17520(l).

- (A) A ~~licensee~~~~member~~ identified under the terms of Business and Professions Code section 494.5 as delinquent in the payment of state taxes will be suspended from the practice of law by the Supreme Court.⁹
- (B) The State Bar will send a written notice of suspension for failure to pay state taxes to the ~~member's~~ licensee's address of record. The suspension will be effective on the date ordered by the Supreme Court.
- (C) The State Bar will ask the Supreme Court to reinstate a ~~member~~ licensee if it receives statutory notice¹⁰ releasing the licensee~~member~~, if the licensee~~member~~ submits a declaration under penalty of perjury stating whether the licensee~~member~~ practiced law during the suspension and if the licensee~~member~~ has paid any fee authorized by statute.¹¹
- (D) If a reinstated licensee~~member~~ subsequently fails to comply with an installment payment agreement that the licensee~~member~~ entered into with the State Franchise Tax Board or the State Board of Equalization,¹² the State Bar will request that the Supreme Court suspend the licensee~~member~~ within thirty days and will send written notice of its request to the ~~member's~~ licensee's address of record.
- (E) Annual ~~membership~~ license fees accrue according to the ~~member's~~ licensee's status prior to suspension.

Rule 2.36 adopted effective January 17, 2014.

Rule 2.40 Multiple accrual rates for annual ~~membership~~ license fees

If under these rules there is a conflict in the rate at which a ~~member~~ licensee accrues fees, the active rate applies.

Rule 2.40 adopted as Rule 2.36 effective July 20, 2007; renumbered as Rule 2.40 effective January 17, 2014.

Rule 2.45 Voluntary resignation

- (A) A ~~member~~ licensee may tender a voluntary resignation from the State Bar of California if:
 - (1) the ~~member~~ licensee is not
 - (a) currently suspended from the practice of law as a result of the imposition of discipline by the California Supreme Court;

⁹ California Rules of Court, Rule 9.24.

¹⁰ Business and Professions Code section 494.5.

¹¹ California Rules of Court, Rule 9.24; Business and Professions Code section 494.5(l).

¹² Business and Professions Code section 494.5(j).

- (b) currently subject to a period of probation or to conditions attached to a public or private reproof pursuant to discipline imposed by the State Bar Court or the California Supreme Court; or
 - (c) currently subject to the terms of an agreement in lieu of discipline that the ~~member~~licensee has entered into with the Office of the Chief Trial Counsel;
- (2) the ~~member~~licensee does not currently have a disciplinary complaint, investigation or proceeding pending against him or her with any professional licensing agency in California or another jurisdiction;
- (3) the licensee~~member~~ is neither currently charged with the commission of a felony or misdemeanor nor aware that he or she is the subject of a current criminal investigation or grand jury proceeding for the alleged commission of a felony or misdemeanor; and
- (4) the licensee~~member~~
 - (a) has never been convicted of a felony or misdemeanor listed in Business and Professions Code section 6068(o)(5);
 - (b) has been convicted of a felony or misdemeanor listed in Business and Professions Code section 6068(o)(5) and has been disciplined as a result of the conviction; or
 - (c) has been convicted of a felony or misdemeanor listed in Business and Professions Code section 6068(o)(5) but the related disciplinary proceeding was dismissed without the imposition of discipline.
- (B) A licensee~~member~~ who is eligible to tender his or her voluntary resignation pursuant to subsection (A) of this rule must complete and execute, under penalty of perjury, the voluntary resignation form approved by the Board of Trustees and submit the original of the form to the State Bar's Office of ~~Member Services~~Attorney Regulation & Consumer Resources.
- (C) Upon tendering his or her voluntary resignation and until the California Supreme Court accepts or rejects the resignation, the ~~member~~licensee is immediately enrolled as an inactive ~~member~~licensee of the State Bar of California and is ineligible to practice law or claim in any way to be entitled to practice law.
- (D) A ~~member's~~licensee's voluntary resignation is effective only when it is accepted by the California Supreme Court.
- (E) A false statement made by a ~~member~~licensee in tendering his or her voluntary resignation under this rule

- (1) may result in an order of the Supreme Court denying or vacating the ~~member's~~ licensee's resignation;
- (2) constitutes cause for disbarment or suspension; and
- (3) may be punished as contempt or as a crime.

Rule 2.45 adopted as Rule 2.37 effective April 1, 2009; amended effective May 15, 2009; amended effective January 1, 2012; renumbered as Rule 2.45 effective January 17, 2014.

Rule 2.46 Noncompliance with Attorney Fingerprinting Requirement

- (A) Definition: Noncompliance is failure to submit proof that fingerprints have been taken in accordance with State law and State Bar procedures.
- (B) Enrollment as inactive for fingerprinting noncompliance
 - (1) A licensee determined by the State Bar to be in noncompliance with State Bar fingerprinting requirements will be enrolled as inactive and not eligible to practice law. The enrollment is administrative and no hearing is required.
 - (2) All licensees will receive notices of non-compliance at least 60 days prior to involuntary inactive enrollment.
- (C) Reinstatement following fingerprinting noncompliance
 - (1) Enrollment as inactive for fingerprinting noncompliance terminates when a licensee submits proof of compliance.

Rule 2.46 adopted effective May 18, 2018.

TITLE 2. RIGHTS AND RESPONSIBILITIES OF ~~MEMBERS~~LICENSEES

Adopted July 2007
Amended effective February 1, 2018

DIVISION 4. MINIMUM CONTINUING LEGAL EDUCATION

Chapter 1 Purpose and scope

Rule 2.50 Purpose of MCLE

Rules for Minimum Continuing Legal Education (MCLE) require active ~~members~~ licensees of the State Bar of California to remain current regarding the law, the obligations and standards of the legal profession, and the management of their practices. A ~~member's~~ licensee's involuntary enrollment as inactive for failing to comply with these rules is public information available on the State Bar Web site.

Rule 2.50 adopted effective January 1, 2008.

Rule 2.51 Definitions

- (A) An "MCLE activity" is continuing legal education that the State Bar approves as meeting standards for MCLE credit.
- (B) A "provider" is an individual or entity approved by the State Bar to grant MCLE credit for an MCLE activity.
- (C) "MCLE credit" is the number of credit hours that a ~~member~~ licensee may claim to meet the requirements of these rules.
- (D) A "credit hour" is sixty minutes actually spent in an MCLE activity, less any time for breaks or other activities that lack educational content. A credit hour is reported to the nearest quarter hour in decimals.
- (E) An "approved jurisdiction" is recognized by the State Bar as having MCLE requirements that substantially meet State Bar standards for MCLE activities and computing MCLE credit hours in a manner acceptable to the State Bar. Approved jurisdictions are listed on the State Bar Web site.
- (F) A "participatory activity" is an MCLE activity for which the provider must verify attendance. Participatory activities may be presented in person or delivered by electronic means.
- (G) A "self-study activity" is any MCLE activity identified in Rule 2.83. Self-study activities may be presented in person or delivered by electronic means.

- (H) State Bar New Attorney Training is MCLE that is developed and made available directly from the State Bar and is focused on law practice competency for newly admitted ~~members~~licensees.

Rule 2.51 adopted effective January 1, 2008; amended effective July 1, 2014; amended effective February 1, 2018.

Rule 2.52 MCLE Activities

To receive MCLE credit, a ~~member~~licensee must complete an MCLE activity that meets State Bar standards.

- (A) The MCLE activity must relate to legal subjects directly relevant to licensees~~members~~ of the State Bar or have significant current professional and practical content.
- (B) The presenter of the MCLE activity must have significant professional or academic experience related to its content.
- (C) Promotional material must state that the MCLE activity is approved for MCLE credit or that a request for approval is pending; specify the amount of credit offered; and indicate whether any of the credit may be claimed for required MCLE in legal ethics, elimination of bias, or competence issues.
- (D) If the activity lasts one hour or more, the provider must make substantive written materials relevant to the MCLE activity available either before or during every MCLE activity. Any materials provided online must remain online for at least thirty calendar days following the MCLE activity.
- (E) Programs and classes must be scheduled so that participants are free of interruptions.

Rule 2.52 adopted effective January 1, 2008; amended effective January 1, 2013; amended effective July 1, 2014.

Rule 2.53 New licensees~~members~~

- (A) A new licensee~~member~~ is permanently assigned to a compliance group on the date of admission.
- (B) The initial compliance period for a new licensee~~member~~ begins on the first day of the month in which the licensee~~member~~ was admitted. It ends when the period ends for the compliance group. If the initial period is less than the period for the compliance group, the required credit hours may be reduced as provided in these rules.¹

¹ Rule 2.72 (C).

- | (C) A new ~~licensee~~~~member~~ may not claim credit for education taken before the initial compliance period.
- | (D) A new ~~licensee~~~~member~~ is required to complete a State Bar New Attorney Training program during the first year of admission which can also be applied to the regular MCLE requirement.

Rule 2.53 adopted effective January 1, 2008; amended effective February 1, 2018.

Rule 2.54 Exemptions

- | (A) The following active ~~members~~licensees are exempt from MCLE requirements, provided they claim the exemption in their assigned compliance periods using My State Bar Profile online or an MCLE Compliance Form:
 - (1) officers and elected officials of the State of California;
 - (2) full-time professors at law schools accredited by the State Bar of California or the American Bar Association;
 - (3) those employed full-time by the State of California on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law; and
 - (4) those employed full-time by the United States government on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law.
- | (B) ~~Members~~ Licensees whom this rule exempts by reason of their employment with the State of California or the United States government may provide pro bono legal services through a California qualified legal services project or a qualified support center², or through a legal services project or support center that primarily provides legal services without charge to indigent persons in another jurisdiction and is funded by the Legal Services Corporation or the Older Americans Act or receives funding administered by the jurisdiction's interest on lawyers trust accounts program.

Rule 2.54 adopted effective January 1, 2008; amended effective February 23, 2017.

Rule 2.55 Modifications

- | A ~~member~~licensee prevented from fulfilling the MCLE requirement for a substantial part of a compliance period because of a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply for modification of MCLE compliance requirements. The State Bar must approve any modification.

² Business & Professions Code § 6213.

Rule 2.55 adopted effective January 1, 2008.

Chapter 2. Compliance

Rule 2.70 Compliance groups

A ~~member~~-licensee is permanently assigned to one of three compliance groups on the basis of the first letter of the ~~member's~~-licensee's last name at the date of admission.³ The three groups are A-G, H-M, and N-Z. The ~~member~~-licensee remains in the compliance group despite any subsequent change of last name.

Rule 2.70 adopted effective January 1, 2008.

Rule 2.71 Compliance periods

- (A) A compliance period consists of thirty-six months. It begins on the first day of February and ends three years later on the last day of January. The three compliance groups begin and end their compliance periods in different years. A ~~member~~-licensee must report MCLE compliance no later than the day following the end of the compliance period. The report must be made online using My State Bar Profile or with an MCLE Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.
- (B) Compliance with State Bar New Attorney Training must be effectuated and reported completed, in a manner established by the State Bar, by the last day of the month of an attorney's one-year anniversary as a State Bar ~~member~~licensee. Fees for noncompliance are set forth in a Schedule of Charges and Deadlines.

Rule 2.71 adopted effective January 1, 2008; amended effective February 1, 2018.

Rule 2.72 Requirements

- (A) Unless these rules indicate otherwise, a licensee~~member~~ who has been active throughout a thirty-six-month compliance period must complete twenty-five credit hours of MCLE activities. No more than twelve and a half credit hours may be self-study.⁴ Total hours must include no less than 6 hours as follows:
 - (1) at least four hours of legal ethics;
 - (2) at least one hour dealing with the recognition and elimination of bias in the legal profession and society by reason of, but not limited to, sex, color,

³ A historical exception exists. When the MCLE program was established in 1992, ~~members~~-licensees were permanently assigned to compliance groups on the basis of their last names at the time, regardless of any different last names they might have used previously.

⁴ Rule 2.83.

race, religion, ancestry, national origin, physical disability, age, or sexual orientation; and

- (3) at least one hour of education addressing substance abuse or other mental or physical issues that impair a ~~member's~~ licensee's ability to perform legal services with competence.
- (B) Required education in legal ethics, elimination of bias, or competence issues may be a component of an approved MCLE activity that deals with another topic.
- (C) A ~~member~~ licensee may reduce the required twenty-five hours in proportion to the number of full months the ~~member~~ licensee was inactive or exempt in the thirty-six-month compliance period. Up to half the reduced hours may be self-study.⁵ A tool for applying this formula is available at the State Bar Web site.
- (D) Excess credit hours may not be applied to the next compliance period.⁶

Rule 2.72 adopted effective January 1, 2008; amended effective July 1, 2014.

Rule 2.73 Record of MCLE

For a year after reporting MCLE compliance, a ~~member~~ licensee must retain and provide upon demand and to the satisfaction of the State Bar

- (A) a provider's certificate of attendance;
- (B) a record of self-study that includes the title, provider, credit hours, and date of each MCLE activity; or
- (C) proof of exempt status.

Rule 2.73 adopted effective January 1, 2008; amended effective July 1, 2014.

Chapter 3. MCLE Activities approved for MCLE credit

Rule 2.80 Attending programs and classes

A ~~member~~ licensee may claim MCLE credit for attending a MCLE activity, such as a lecture, panel discussion, or law school class, in person or by technological means.

Rule 2.80 adopted effective January 1, 2008.

Rule 2.81 Speaking

⁵ Rule 2.83.

⁶ But see Rule 2.93.

| A ~~licensee~~~~member~~ may claim participatory MCLE credit for speaking at an approved MCLE activity.

(A) A principal speaker, who is responsible for preparing and delivering a program or class and its related materials, may claim

(1) actual speaking time multiplied by four for the first presentation; or

(2) actual speaking time only for each time a presentation is repeated without significant change.

(B) A panelist may claim

(1) either of the following for the first panel presentation:

(a) scheduled individual speaking time multiplied by four, plus the actual time spent in attendance at the remainder of the presentation; or

(b) when times have not been scheduled for individual speakers, an equal share of the total time for all speakers multiplied by four plus the actual time spent in attendance at the remainder of the presentation.

(2) actual speaking time only for each time a presentation is repeated without significant change.

| (C) A ~~member~~~~licensee~~ who introduces speakers or serves as a moderator may claim only the MCLE credit available to any attendee.

Rule 2.81 adopted effective January 1, 2008; amended effective July 1, 2014.

Rule 2.82 Teaching

| A ~~member~~~~licensee~~ may claim participatory MCLE credit for teaching a law school course.

(A) A ~~member~~~~licensee~~ assigned to teach a course may claim no more than the credit hours granted by the law school multiplied by twelve or actual speaking time for required MCLE in legal ethics, elimination of bias, or competence issues.

(B) A guest lecturer or substitute teacher may claim

(1) actual speaking time multiplied by four for the first presentation; or

(2) actual speaking time only for each time a presentation is repeated without significant change.

Rule 2.82 adopted effective January 1, 2008; amended effective July 1, 2014.

Rule 2.83 Self-study

A ~~member~~-licensee may claim up to half the credit hours required in a compliance period for

- (A) completing MCLE activities for which attendance is not verified by a provider and the MCLE activities were prepared within the preceding five years;
- (B) taking an open- or closed-book self-test and submitting it to a provider who returns it with a grade and explanations of correct answers; or
- (C) authoring or co-authoring written materials that
 - (1) have contributed to the ~~member's~~-licensee's legal education;
 - (2) have been published or accepted for publication; and
 - (3) were not prepared in the ordinary course of employment or in connection with an oral presentation at an approved MCLE activity.

Rule 2.83 adopted effective January 1, 2008; amended effective July 1, 2014.

Rule 2.84 Legal specialization

A ~~member~~-licensee may claim MCLE credit for educational activities that the California Board of Legal Specialization approves for certification or recertification.

Rule 2.84 adopted effective January 1, 2008; amended effective July 1, 2014.

Rule 2.85 Education taken while physically out of state

- (A) A ~~member~~-licensee may claim MCLE credit for an MCLE activity authorized by an approved jurisdiction if it meets the requirements of these rules and if the ~~member~~-licensee attends or does the MCLE activity outside California. A ~~member~~-licensee may not claim credit for such an activity, including self-study, when physically present in California unless the State Bar has specifically approved it.
- (B) A ~~member~~-licensee who qualifies for an MCLE activity authorized by an approved jurisdiction may claim the amount of credit authorized by the jurisdiction. No special procedure is required to claim the credit.

Rule 2.85 adopted effective January 1, 2008; amended effective July 1, 2014.

Rule 2.86 ~~Member~~-Licensee credit request

A ~~member~~-licensee may apply for MCLE credit for an educational activity directly relevant to the ~~member's~~ licensee's practice but not otherwise approved if the activity substantially meets State Bar standards. The application must be submitted with the appropriate fee.

Rule 2.86 adopted effective January 1, 2008; amended effective July 1, 2014.

Rule 2.87 Bar examinations and MPRE

A ~~member~~-licensee may not claim MCLE credit for preparing for or taking a bar examination or the Multistate Professional Responsibility Examination (MPRE).

Rule 2.87 adopted effective January 1, 2008.

Chapter 4. Noncompliance

Rule 2.90 Definition

Noncompliance is failure to

- (A) complete the required education during the compliance period or an extension of it;
- (B) report compliance or claim exemption from MCLE requirements;
- (C) keep a record of MCLE compliance⁷; or
- (D) pay fees for noncompliance.

Rule 2.90 adopted effective January 1, 2008.

Rule 2.91 Notice of noncompliance

- (A) A ~~member~~-licensee who is sent a notice of noncompliance must comply with its terms or be involuntarily enrolled as inactive. An inactive ~~member~~-licensee is not eligible to practice law.
- (B) If the notice requires the ~~member~~-licensee to complete credit hours for the previous compliance period, any excess credit hours may be counted toward the current compliance period.

Rule 2.91 adopted effective January 1, 2008.

Rule 2.92 Enrollment as inactive for MCLE noncompliance

⁷ Rule 2.73.

| A ~~member~~licensee who fails to comply with a notice of noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

Rule 2.92 adopted effective January 1, 2008.

Rule 2.93 Reinstatement following MCLE noncompliance

| Enrollment as inactive for MCLE noncompliance terminates when a ~~member~~licensee submits proof of compliance and pays noncompliance fees. Credit hours that exceed those required for compliance may be counted toward the current period.

Rule 2.93 adopted effective January 1, 2008.

TITLE 2. RIGHTS AND RESPONSIBILITIES OF ~~MEMBERS~~LICENSEES

Adopted July 2007

DIVISION 5. TRUST ACCOUNTS

Chapter 1. Global Provisions

Rule 2.100 Definitions

- (A) A "Chargeable fee" is a per-check charge, per-deposit charge, fee in lieu of minimum balance, federal deposit insurance fee, or sweep fee.
- (B) A "Client" is a person or a group of persons that has engaged the attorney or firm for a common purpose.
- (C) "Comparably conservative" in Business and Professions Code 6213(j) includes, but is not limited to, securities issued by Government Sponsored Enterprises.
- (D) An "Exempt Account" is exempt from IOLTA requirements because it does not meet the productivity criteria established by the Legal Services Trust Fund Commission.
- (E) "Funds" are monies held in a fiduciary capacity by a ~~member~~licensee for the benefit of a client or a third party.
- (F) An "IOLTA account" is an Interest on Lawyers' Trust Account as defined in Business and Professions Code section 6213(j).
- (G) An "IOLTA-eligible institution" is an eligible institution as defined in 6213(k) that meets the requirements of these rules, State Bar guidelines, and the State Bar Act.
- (H) "IOLTA funds" are the interest or dividends generated by IOLTA accounts.
- (I) A "~~member~~licensee" is a ~~member~~-licensee and a licensee's~~member's~~ law firm.
- (J) A "~~member~~licensee business expense" is an expense that a ~~member~~licensee incurs in the ordinary course of business, such as charges for check printing, deposit stamps, insufficient fund charges, collection charges, wire transfer fees, fees for cash management, and any other fee that is not a chargeable fee.

Rule 2.100 adopted effective January 12, 2008.

Chapter 2. ~~Members'~~Licensees' Duties

Rule 2.110 Funds to be held in an IOLTA account

- (A) ~~Members~~Licensees must establish IOLTA accounts for funds that cannot earn income for the client or third party in excess of the costs incurred to secure such income because the funds are nominal in amount or held for a short period of time. In determining whether funds can earn income in excess of costs, a ~~member~~licensee must consider the following factors:
- (1) the amount of the funds to be deposited;
 - (2) the expected duration of the deposit, including the likelihood of delay in resolving the matter for which the funds are held;
 - (3) the rates of interest or dividends at eligible institutions where the funds are to be deposited;
 - (4) the cost of establishing and administering non-IOLTA accounts for the client or third party's benefit, including service charges, the costs of the ~~member's~~licensee's services, and the costs of preparing any tax reports required for income earned on the funds;
 - (5) the capability of eligible institutions or the ~~member~~licensee to calculate and pay income to individual clients or third parties;
 - (6) any other circumstances that affect the ability of the funds to earn a net return for the client or third party.
- (B) The State Bar will not bring disciplinary charges against a ~~member~~licensee for determining in good faith whether or not to place funds in an IOLTA account.

Rule 2.110 adopted effective January 12, 2008.

Rule 2.111 Funds not to be held in an IOLTA account

- (A) If a ~~member~~licensee determines that the funds can earn income for the benefit of the client or third party in excess of the costs incurred to secure such income, the funds must be deposited in a trust account in accordance with the provisions of Section 6211(b) of the Business and Professions Code and Rule 4-100 of the Rules of Professional Conduct or as the client or third party directs in writing.
- (B) A ~~member~~licensee should not designate an exempt account¹ as an IOLTA account.

Rule 2.111 adopted effective January 12, 2008.

Rule 2.112 Review of funds in an IOLTA account

¹ As defined in Rule 2.100 (D)

| A ~~member~~licensee must review an IOLTA account at reasonable intervals to determine whether changed circumstances require funds be moved out of the IOLTA account.

Rule 2.112 adopted effective January 12, 2008.

Rule 2.113 Charges against IOLTA funds

| A ~~member~~licensee may allow an IOLTA-eligible institution to deduct chargeable fees permitted by Business and Professions Code 6212(c) from IOLTA funds. A ~~member~~licensee must pay any ~~member~~licensee business expense and may not allow the bank to deduct such expenses from IOLTA funds. If the State Bar becomes aware that a ~~member~~licensee business expense is erroneously deducted from IOLTA funds, the State Bar will inform the IOLTA-eligible institution and request that the error be corrected.

Rule 2.113 adopted effective January 12, 2008.

Rule 2.114 Reporting to the State Bar

| A ~~member~~licensee must report compliance with these rules.

Rule 2.114 adopted effective January 12, 2008.

Rule 2.115 Consent to reporting

| By establishing funds in an account, a ~~member~~licensee consents to the eligible institution's furnishing account information to the State Bar as required by these rules, State Bar guidelines, and the State Bar Act.

Rule 2.115 adopted effective January 12, 2008.

Rule 2.116 Liquidity requirements

IOLTA accounts must allow prompt withdrawal of funds, except that such accounts may be subject to notification requirements applicable to all other accounts of the same class at the eligible institution so long as the notification requirement does not exceed thirty days.

Rule 2.116 adopted effective January 12, 2008.

Rule 2.117 Institution eligibility requirements

| A ~~member~~licensee may place an IOLTA account only in an IOLTA-eligible institution. The State Bar will maintain a list of IOLTA-eligible institutions.

Rule 2.117 adopted effective January 12, 2008.

Rule 2.118 No change to other duties and obligations of a ~~member~~licensee

Nothing in these rules shall be construed as affecting or impairing the duties and obligations of a ~~member~~licensee pursuant to the statutes and rules governing the conduct of ~~members~~licensees of the State Bar including, but not limited to, provisions of Rule ~~1.154-100~~ of the Rules of Professional Conduct requiring a ~~member~~licensee to promptly notify a client of the receipt of the client's funds and to promptly pay or deliver to the client, as requested by the client, the funds in the possession of the ~~member~~licensee which the client is entitled to receive.

Rule 2.118 adopted effective January 12, 2008.

Chapter 3. Duties of an IOLTA eligible institution

Rule 2.130 Comparable Interest Rate or Dividend Requirement

- (A) An IOLTA-eligible institution must pay comparable interest rates or dividends as required under Business and Professional Code 6212(b) and 6212(e) and may choose to do so in one of three ways:
- (1) allow establishment of IOLTA accounts as comparable-rate products;
 - (2) pay the comparable-product rate on IOLTA deposit accounts, less chargeable fees, if any; or
 - (3) pay the Established Compliance Rate determined by the Legal Services Trust Fund Commission.
- (B) "Accounts of the same type" in section 6212(b) refers to comparable-rate products described in sections 6212(e) and 6212(j) for which the IOLTA-eligible institution pays no less than the highest interest rate or dividend generally available from the institution to non-IOLTA account customers when the IOLTA account meets the same minimum balance or other eligibility qualifications.

Rule 2.130 adopted effective January 12, 2008.

Rule 2.131 Payments to the State Bar

An IOLTA-eligible institution must remit payments to the State Bar in accordance with Business and Professions Code 6212(d)(1-3) and State Bar rules and guidelines.

Rule 2.131 adopted effective January 12, 2008.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 1. PROSPECTIVE ~~MEMBERS~~ LICENSEES

Chapter 1. Practical Training of Law Students

Rule 3.1 Practical Training of Law Students Program

Practical Training of Law Students is a program that allows a supervised law student certified by the State Bar to negotiate and appear on behalf of a client in the limited circumstances permitted by Rule of Court 9.42 and these rules.¹

Rule 3.1, adopted effective July 1, 2010

Rule 3.2 Eligibility

- (A) To be considered for the State Bar program for Practical Training of Law Students a law student must meet the eligibility requirements of Rule of Court 9.42(c).
- (B) Other qualifications notwithstanding, a person is ineligible to apply for certification who
 - (1) is licensed to practice law in any jurisdiction; or
 - (2) has not taken the first California Bar Examination for which he or she is eligible.

Rule 3.2, adopted effective July 1, 2010

Rule 3.3 Application

- (A) To apply to be a certified law student, an eligible applicant must
 - (1) register as a general applicant for admission to the practice of law in California;² and
 - (2) submit an Application for Practical Training of Law Students Program³ with
 - (a) the fee⁴ set forth in the Schedule of Charges and Deadlines;

¹ Rule of Court 9.42(a).

² Rule 4.3(G) defines "general applicant." Rule 4.16(B) explains the Application for Admission.

³ See Rule 4.16(B).

⁴ Rule of Court 9.42(f).

- (b) a current e-mail address not to be disclosed on the State Bar's Web site or otherwise to the public without the applicant's consent;
 - (c) a Declaration of Law School Official attesting that the law student meets the eligibility requirements of these rules and is qualified to be a certified law student, absent any subsequent notification to the contrary that the official agrees to provide; and
 - (d) a Declaration of Supervising Attorney attesting that for a specified period the attorney will supervise the applicant as required by these rules.
- (B) Upon approval of the application, the State Bar issues a "Notice of Law Student Certification" ("notice") stating that the applicant is a certified participant in the program for Practical Training of Law Students for the period stated in the notice.⁵

Rule 3.3, adopted effective July 1, 2010

Rule 3.4 Permitted activities

- (A) A certified law student may engage only in the activities permitted by Rule of Court 9.42(d) under the conditions prescribed by that rule.
- (B) Nothing in this rule prohibits a certified law student from providing advice or representation that might be provided by anyone who is not a ~~member~~licensee of the State Bar of California.

Rule 3.4, adopted effective July 1, 2010

Rule 3.5 Duties of certified law student

A certified law student must

- (A) act as a certified law student only during the period stated in the Notice of Law Student Certification;⁶
- (B) at all times comply with Rule of Court 9.42 and these rules;
- (C) maintain a current e-mail address with the State Bar;
- (D) upon ceasing to be eligible for the program, promptly inform the State Bar and cease any activity that a certified law student is permitted to perform; and

⁵ See Rule 3.8.

⁶ See Rule 3.8.

- | (E) not claim in any way to be a ~~member~~licensee of the State Bar of California.

Rule 3.5, adopted effective July 1, 2010

Rule 3.6 Supervising Attorney

- | (A) “Supervising Attorney” is an active ~~member~~licensee of the State Bar of California in good standing who agrees to supervise a certified law student as required by these rules.⁷ A ~~member~~licensee who is inactive, suspended, or subject to discipline, or who has resigned or been disbarred may not be a Supervising Attorney. In these rules, “Supervising Attorney” may also refer to a government agency attorney whom the Supervising Attorney delegates to supervise the permitted activities of a certified law student.

- (B) A Supervising Attorney must

- | (1) be an active ~~member~~licensee of the State Bar of California who has practiced law in California or taught law in a law school as a full-time occupation for at least the two years before supervising a certified law student;
- (2) supervise the permitted activities of a certified law student as specified by Rule 9.42(d);
- (3) personally assume professional responsibility for any activity a certified law student performs pursuant to these rules;
- (4) provide training and counsel that prepares a certified law student to satisfactorily perform an activity permitted by these rules in a manner that best serves the interest of a client;
- (5) read, approve, and sign any document prepared by the certified law student for a client;
- (6) supervise at one time no more than five certified law students or twenty-five if employed full-time to supervise law students in a law school or government training program; and
- (7) promptly notify the State Bar that he or she no longer meets the requirements of these rules or that his or her supervision is ending before the period stated in the Notice of Certification.

Rule 3.6, adopted effective July 1, 2010

Rule 3.7 Designation as certified law student

⁷ Rule of Court 9.42(a)(2).

- (A) A certified law student may use the title “Certified Law Student” and no other in connection with activities performed as a certified law student.
- (B) On written materials prepared pursuant to these rules, a certified law student must use the title Certified Law Student with his or her name and provide the name of his or her Supervising Attorney.

Rule 3.7, adopted effective July 1, 2010

Rule 3.8 Duration of certification

- (A) Subject to the exceptions set forth in this rule, a certified law student may perform an activity that complies with these rules for the period stated in the Notice of Law Student Certification and only while the supervising attorney identified in the application supervises the student. A request to change the supervising attorney requires a new application.
- (B) A student who graduates from law school during the period stated in the Notice of Law Student Certification and then takes the first California Bar Examination for which he or she is eligible may participate in the program until the State Bar releases results for that examination.
- (C) Certification terminates before the end of the period stated in the Notice of Law Student Certification if
 - (1) the certified law student no longer meets the eligibility requirements of these rules;
 - (2) the certified law student requests that certification terminate on an earlier date;
 - (3) the certified law student fails to take the first California Bar Examination for which he or she is eligible; or
 - (4) the State Bar revokes certification.⁸

Rule 3.8, adopted effective July 1, 2010

Rule 3.9 Revocation of certification

The State Bar may revoke certification for noncompliance with any applicable rule or law.⁹ The State Bar must provide the certified law student a written notice of revocation. The revocation is effective ten days from the date of its transmission.

⁸ See Rule 3.9.

⁹ Rule of Court 9.42(e).

Rule 3.9, adopted effective July 1, 2010

Rule 3.10 Request for review of revocation

A certified law student whose certification has been revoked may request review of the revocation. The request must be in writing and received by the State Bar no more than fifteen days from the date of transmission of the notice. Within sixty days of receiving the request, the State Bar must provide the certified law student with a written determination affirming or denying the revocation. The determination constitutes the final action of the State Bar.

Rule 3.10, adopted effective July 1, 2010

TITLE 3. PROGRAMS AND SERVICES

~~Adopted July 2007~~

~~DIVISION 2. ATTORNEY MEMBERS~~

~~Chapter 1. Sections of the State Bar~~

~~Rule 3.50 — Definition~~

~~“Sections” are voluntary organizations of State Bar members and non-member affiliates that share an area of interest.~~

~~Rule 3.50 adopted effective May 16, 2008; amended effective November 10, 2014.~~

~~Rule 3.51 — Scope of Sections~~

~~Sections serve the profession, the public, and the legal system by helping their members maintain expertise in various fields of law and expanding their professional contacts. Specific purposes and duties of sections are described in their bylaws.~~

~~Rule 3.51 adopted effective May 16, 2008.~~

~~Rule 3.52 — Section membership~~

~~(A) — Section membership is open to members of the State Bar or judges of courts of record.~~

~~(B) — A section’s bylaws may authorize enrollment of non-members of the State Bar as affiliate members. No more than one-fourth of all section members may be non-member affiliates. An affiliate member has all the privileges of section membership and may~~

~~(1) — serve as an officer;~~

~~(2) — serve as a member of a committee; or~~

~~(3) — nominate, select, or serve as members of its executive committee.~~

~~Rule 3.52 adopted effective May 16, 2008; amended effective September 24, 2008; amended effective November 21, 2008; amended effective November 10, 2014.~~

~~Rule 3.53 — Section membership fees~~

~~Section membership requires payment to the State Bar of an annual fee. The fees are set by the Sections Executive Committee and approved by the Board of Trustees to defray the cost of administering the sections.~~

~~Rule 3.53 adopted effective May 16, 2008; amended effective January 1, 2012.~~

~~Rule 3.54 — Executive Committee~~

- ~~(A) — A section must have an executive committee of at least fifteen but no more than seventeen members. Each member is appointed by the Board of Trustees for a three-year term to govern the section and to assist the board as it directs. Executive Committee members are permitted to serve as an officer, in a fourth year, or as Chair, Vice Chair or Chair-elect in a fifth year, or as Chair, in a sixth year. Executive committee members must take an oath of office and are not entitled to compensation for their services.~~
- ~~(B) — Executive committee members assume office on the last day of the State Bar's annual meeting and serve until their successors assume office. A vacant position is filled by the board for the unexpired term. If the section is new, the board appoints seven members for three years; five members for two years; and five members for one year.~~
- ~~(C) — Nominations for the executive committee may be made by the executive committee or by at least fifteen members of the section upon petition.~~
- ~~(D) — A majority of the section executive committee constitutes a quorum for transacting business at a committee meeting or by poll.~~
- ~~(E) — The executive committee may appoint non-voting advisors who serve at the pleasure of the committee.~~

~~Rule 3.54 adopted effective May 16, 2008; amended effective January 1, 2012; amended effective July 19, 2013.~~

~~Rule 3.55 — Officers of the section executive committee~~

~~(A) — The Board of Trustees must appoint as chair and vice-chair of the executive committee members who have served on the committee at least a year at the time of assuming office. The committee must recommend candidates for these offices to the board.~~

~~(B) — The chair and vice-chair assume office on the last day of the State Bar's annual meeting and serve until their successors assume office. A vacant position is filled by the board for the unexpired term.~~

~~Rule 3.55 adopted effective May 16, 2008; amended effective January 1, 2012.~~

~~Rule 3.56 — Section committees~~

~~One or more standing or ad hoc committees composed of section members may be established as provided by the bylaws of the section.~~

~~Rule 3.56 adopted effective May 16, 2008.~~

~~Rule 3.57 — Bylaws~~

~~(A) — Each Section's bylaws must be approved by the Board of Trustees. After the Board of Trustees has approved the bylaws of a new section, the bylaws may be amended by a two-thirds vote of the entire membership of the executive committee.~~

~~(B) — An amendment must be filed with the Secretary at the San Francisco office of the State Bar and will not take effect until approved by the Board of Trustees.~~

~~Rule 3.57 adopted effective May 16, 2008; amended effective January 1, 2012.~~

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 2. ~~ATTORNEY MEMBERS~~CALIFORNIA LICENSEES

Chapter 2. Legal Specialization

Article 1. General provisions

Rule 3.90 California Board of Legal Specialization

- (A) The California Board of Legal Specialization (“board”) is appointed by the Board of Trustees of the State Bar of California to establish and administer a program to encourage attorney competence by certifying as legal specialists attorneys who have demonstrated proficiency in specified areas of law.¹ This chapter sets forth the rules for those certified specialists.
- (B) The board consists of the following members, including a chair, vice-chair, and the immediate past chair, each entitled to vote:
 - (1) twelve attorney members, up to two of whom need not be certified specialists; and
 - (2) three non-attorneys.
- (C) The board may recommend that the Board of Trustees approve additional areas of legal specialization and their related certification standards.
- (D) The board may recommend that the Board of Trustees authorize other entities to grant certification. The rules applicable to such entities are set forth elsewhere in this title.²

Rule 3.90 adopted effective January 1, 2014.

Rule 3.91 Certification standards

The Board of Trustees adopts certification standards for each specialty to supplement these rules.

Rule 3.91 adopted effective January 1, 2014.

¹ See Rule of Court 9.35.

² Rule 3.900 et seq.

Rule 3.92 Advisory commissions

An advisory commission (“commission”) is appointed by the Board of Trustees to recommend and apply certification standards for each area of legal specialization. A commission consists of an even number of attorney members, but no more than eight, and a non-attorney member. One of the attorney members need not be a certified specialist.

Rule 3.92 adopted effective January 1, 2014.

Rule 3.93 Terms

- (A) Each board and commission member is appointed for a term of four years. A member whose four-year term is expiring may serve an additional year as chair, vice-chair, or immediate past chair. An immediate past chair may also serve an additional year.
- (B) A vacancy on the board or a commission occurs when a member dies, resigns, or an attorney member ceases to be an active ~~member~~licensee of the State Bar. A vacancy must be filled by the Board of Trustees.

Rule 3.93 adopted effective January 1, 2014.

Rule 3.94 Meetings

Meetings of the board and its advisory commissions are governed by the Rules of the State Bar.³

Rule 3.94 adopted effective January 1, 2014.

Rule 3.95 Conflicts of interest

- (A) To avoid a conflict of interest that may interfere or appear to interfere with impartial evaluation of an applicant, a board or commission member considering an application must immediately disclose to the chair of the board or commission any significant past or present relationship with the applicant, whether familial, professional, political, social, or financial.
- (B) A board or commission member who believes that the length or nature of a relationship would unduly influence or appear to influence evaluation of an applicant may in no way participate in or attempt to influence the evaluation. Representing opposing parties in a legal matter does not necessarily require recusal.

³ See Rule 6.60 et seq.

- (C) If a board or commission member believes recusal is not required and the chair disagrees, the determination of the chair prevails. Factors the chair is to consider in making the determination include the date of the relationship, its duration, and whether it is more than casual or incidental.
- (D) A board or commission member may in no way participate in or attempt to influence board or commission consideration of his or her own application for certification.

Rule 3.95 adopted effective January 1, 2014; amended effective July 24, 2015.

Rule 3.96 Confidentiality

- (A) A certified specialist's certification is public information, but all applications, examination development, examination administration, examinations, grading materials, scores, references, and other records are confidential, unless otherwise provided by these rules or by law. Hearings and informal conferences of the board and the commissions are confidential.
- (B) This rule does not preclude disclosure of information about an applicant or certified specialist by and between the board and the State Bar's Office of the Chief Trial Counsel or the Office of General Counsel in furtherance of the State Bar's regulatory and disciplinary responsibilities.
- (C) A board or commission member may be removed by the Board of Trustees for a breach of confidentiality.

Rule 3.95 adopted effective January 1, 2014; amended effective July 24, 2015.

Article 2. Certified specialists

Rule 3.110 Certification requirements in general

- (A) In these rules "applicant" means an initial applicant for certification or an application for recertification, unless otherwise specified. An applicant must establish proficiency in the specialty area by meeting the following requirements:
 - (1) be an active ~~member~~[licensee](#) in good standing of the State Bar and not currently in disciplinary proceedings or on disciplinary or criminal probation;
 - (2) submit an application with an application fee; and
 - (3) meet the requirements of these rules and any relevant standards regarding
 - (a) education;

- (b) practice and tasks;
 - (c) examination; and
 - (d) references familiar with the applicant's proficiency in performing tasks relied upon for certification in the specialty area.
- (B) An applicant must submit the application within eighteen months of the date on which the applicant took the examination. An applicant may request an extension of up to eighteen months for completion of all requirements. Requests are granted for good cause shown at the discretion of the board.

Rule 3.110 adopted effective January 1, 2014; amended effective July 24, 2015.

Rule 3.111 Fees and deadlines

- (A) These rules refer to fees and deadlines that are set forth in the Schedule of Charges and Deadlines.⁴
- (B) A certified specialist who fails to make timely payment of a required fee will be notified of the delinquency and may be assessed a late charge. Failure to pay the annual fee or late charge within thirty days of notice of delinquency may result in suspension of certification.

Rule 3.111 adopted as Rule 3.112 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

Rule 3.112 Application for Certification

- (A) An Application for Certification must be submitted with an application fee.
- (B) An application is deemed abandoned and ineligible for a refund of the application fee if
- (1) the application is not complete within sixty days of receipt by the State Bar, unless an extension has been granted;
 - (2) the application is complete but the applicant fails to provide additional information requested by the State Bar within ninety days of the request; or
 - (3) an applicant fails to complete any other certification application requirement.

⁴ See Rule 1.20(L).

- (C) Certification requirements completed for an abandoned application may be used for a subsequent application.
- (D) An applicant may apply for certification in more than one specialty.

Rule 3.112 adopted as Rule 3.113 effective January 1, 2014; renumbered effective July 24, 2015.

Rule 3.113 Reporting requirement

Every applicant and every certified specialist has an ongoing duty to comply with these rules and any relevant standards and to promptly disclose to the board any information that might affect eligibility for certification⁵ or that the State Bar Act requires the member⁶ to report to the State Bar.⁶

Rule 3.113 adopted as Rule 3.114 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

Rule 3.114 Education

- (A) Board-approved education or board-approved education alternative must be completed in the specialty area of law as follows:
 - (1) by applicants for initial certification: at least forty-five hours in the three years immediately preceding the application; and
 - (2) by certified specialists: at least thirty-six hours during the specialist's Minimum Continuing Legal Education (MCLE) compliance period. The specialist must report specialty education compliance to the board when reporting MCLE compliance.⁷
- (B) A provider intending to offer specialty education must be approved by the State Bar as a Multiple Activity Provider in a specialty area of law⁸ or must file an application to the board or a designated commission for approval of a single education activity designed to attain or maintain proficiency in a specialty area of law.
- (C) The board may grant specialty education credit for education that meets certification requirements,⁹ inclusive of activities approved for MCLE credit¹⁰ as well as credit for MCLE requirements for legal ethics, elimination of bias, and competence issues.¹¹

⁵ Rule 3.110.

⁶ Business and Professions Code § 6068(o).

⁷ Rules 2.70 and 2.71.

⁸ See Rule 2.52 and Rule 3.600 et seq.

⁹ Rule 2.84.

¹⁰ See Rules 2.51; 2.80; 2.81; 2.82 and 2.83.

¹¹ Rule 2.72.

- (D) The board may grant specialty education credit to a certified specialist who mentors an applicant or a prospective applicant for certification as well as to the mentored applicant or prospective applicant, provided the specialty education is documented to the satisfaction of the board and otherwise meets the requirements of these rules.¹²

Rule 3.114 adopted as 3.115 effective January 1, 2014; renumbered effective July 24, 2015.

Rule 3.115 Practice and task requirements

In the five years immediately preceding the Application for Certification, an applicant must complete the tasks prescribed by the relevant standards with proficiency; demonstrate current substantial involvement in the practice; and spend at least twenty-five percent of the time given to occupational endeavors practicing law in the specialty in which certification is sought. The board's acceptance or rejection of the computation is final.

Rule 3.115 adopted as Rule 3.116 effective January 1, 2014; renumbered effective July 24, 2015.

Rule 3.116 Examination

- (A) An applicant must pay an examination registration fee and take and pass a written examination that tests knowledge of the substantive law and procedures of a legal specialty. The board determines the scope, format, topics, grading process, and passing score of the examination.
- (B) Results reported to applicants are final. Applicants are not entitled to receive their examination answers or to see their scores.
- (C) Upon approval of a new area of legal specialization by the Board of Trustees, the board may approve for a period of no more than two years satisfactory completion of one or more alternative tasks in lieu of a written examination.

Rule 3.116 adopted as Rule 3.117 effective January 1, 2014; renumbered effective July 24, 2015.

Rule 3.117 References

An applicant must provide references from attorneys or judges whom the applicant has identified as familiar with the applicant's proficiency in performing the tasks required for certification. At least three positive references must be provided unless the relevant standards require more. A commission may seek additional references.

Rule 3.117 adopted as Rule 3.118 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

¹² Rule 2.86.

Rule 3.118 Waivers and modifications

- (A) A certified specialist who serves full-time in a state or federal court of record as a judge, magistrate, commissioner, or referee or as an administrative law judge is exempt during the period of service from the annual fee required of a certified specialist and from recertification requirements. The specialist is not eligible for the fee waiver until the service officially begins; any fee paid prior to that time is not refundable.
- (B) The board may waive or permit modification of a certification requirement.

Rule 3.118 adopted as Rule 3.119 effective January 1, 2014; renumbered effective July 24, 2015.

Rule 3.119 Recertification

- (A) To maintain certification in a specialty area, a certified specialist must recertify every five years, which includes submitting a completed application,¹³ paying fees,¹⁴ and meeting education, practice and task, and reference requirements as specified by the board.
- (B) If permitted by the relevant standards, education or practice and task requirements completed in the last six months of certification that exceed recertification requirements may be applied to the next certification period.
- (C) An applicant who fails to pay fees will be notified of the delinquency and may be assessed a late charge. Failure to pay fees or any assessed late charge within 30 days of the notice of delinquency may result in suspension of certification.
- (D) Action on an application for recertification is governed by the process applicable to action on an initial application.¹⁵
- (E) Certified specialists who choose not to recertify will be terminated from the legal specialization program.

Rule 3.119 adopted as Rule 3.124 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

¹³ Following the process outlined in Rule 3.112.

¹⁴ See Rule 3.111

¹⁵ Rules 3.122-3.124 and 3.126.

Rule 3.120 Denial of certification or recertification

An applicant may be denied certification or recertification for

- (A) failure to timely file a completed application, pass the examination for certification, meet the practice and task requirements, obtain at least three positive references, and pay all certification or recertification fees;
- (B) pending disciplinary charges in the State Bar Court, transfer to inactive status, suspension, resignation, or disbarment in California;
- (C) pending disciplinary charges, other disciplinary actions, suspension, resignation, or disbarment in another jurisdiction or before another regulatory body that has licensing or professional disciplinary authority over the applicant;
- (D) prior discipline;
- (E) lack of candor, including any material omissions or material false representations or misstatements made in an Application for Certification or Application for Recertification, or to a commission, the board, or the State Bar;
- (F) failure to report information the applicant must report to the State Bar¹⁶ and to the board¹⁷; or
- (G) information bearing negatively on proficiency that is obtained from references.

Rule 3.120 adopted as Rule 3.111 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

Rule 3.121 Commission action on application

- (A) Within 180 days of receipt of an application, a commission must recommend that the board grant or deny certification or advise the applicant that
 - (1) it requires additional time or information to consider the application; or
 - (2) because of substantial and credible concerns regarding the applicant's qualifications, it is allowing the applicant to withdraw the application or to request an informal conference to address the concerns.¹⁸
- (B) A commission must recommend that the board grant or deny certification no later than 180 days after

¹⁶ For example, see Business and Professions Code §§ 6068(o)(1)-(7) and 6086.8(c).

¹⁷ Rule 3.113

¹⁸ See Rule 3.122.

- (1) an informal conference with an applicant;
- (2) the date of a scheduled conference at which the applicant failed to appear; or,
- (3) if an applicant did not request a conference, the date of the notice regarding the commission's concerns.

Rule 3.121 adopted as Rule 3.120 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

Rule 3.122 Informal conference

- (A) An applicant notified of a commission's concerns regarding his or her application may request an informal conference within thirty days of the date of the notice. The conference must be held within one year of the State Bar's receipt of the request. The applicant's failure to attend the conference entails no negative inference.
- (B) An informal conference may be recorded as the commission deems appropriate. The applicant may attend with counsel; make a written or oral statement; and present documentary evidence. Counsel is limited to observation and may not participate. The commission may require the applicant to provide further documentation or information after the conference.

Rule 3.122 adopted as Rule 3.121 effective January 1, 2014; renumbered effective July 24, 2015.

Rule 3.123 Board action on application

- (A) Within 120 days of receiving a commission's recommendation to grant or deny certification, the board must make a determination to
 - (1) grant certification;
 - (2) direct the commission to further consider the application and report back within 100 days; or
 - (3) deny certification.
- (B) If the board intends to deny certification, it must notify the applicant of its reasons for doing so and allow the applicant thirty days to withdraw the application, provide further support for it, or request a hearing before the board.
- (C) Within ninety days of receiving a timely request for hearing, the board will schedule a hearing. Following the hearing, the board may then continue to deny certification. The applicant must be provided with written notice of the reasons for the board's denial.

- (D) Within thirty days of deciding to grant certification, the board must notify the applicant that certification begins on a specified date for a five-year period. Certification may be terminated sooner as provided by these rules or upon the request of a certified specialist. Certification remains in effect pending final action on a timely application for recertification, except where certification is suspended or revoked pursuant to Rule 3.124.
- (E) The board may postpone commission or board action on an application
 - (1) when a disciplinary recommendation has been made by the State Bar Court or another body that has licensing or professional disciplinary authority over the applicant; or
 - (2) if the applicant is on probation as a result of a disciplinary recommendation; or
 - (3) upon an applicant's suspension, resignation, disbarment or another status change not entitling an applicant to practice law in any jurisdiction where admitted to practice law.

Rule 3.123 adopted as Rule 3.122 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

Rule 3.124 Suspension or revocation of certification

- (A) Certification may be suspended by the board when a disciplinary recommendation has been made by the State Bar Court, or upon transfer to inactive status, suspension, resignation, or disbarment in California; or
- (B) Pending disciplinary charges, other disciplinary actions, suspension, resignation, or disbarment in another jurisdiction or before another regulatory body that has licensing or professional disciplinary authority over the certified specialist.
- (C) Certification may otherwise be revoked or suspended by the board for failure to comply with a material requirement of these rules or any relevant standard.¹⁹
- (D) If the board intends to suspend or revoke certification, it must notify the certified specialist of its reasons for doing so and allow the applicant thirty days either to respond in writing to the board that suspension or revocation would be inappropriate or to request a hearing before the board. The response or request for hearing must be supported by any additional relevant evidence. Suspension or revocation of certification is final if the specialist fails to provide a timely written response or a request for hearing.

¹⁹ Rule of Court 9.35(d).

- (E) The board must consider a timely response to a notice of intent to suspend or revoke certification of a certified specialist within ninety days of receiving the response. The board may then continue certification with or without conditions, or suspend or revoke certification. The certified specialist must be provided with written notice of the reasons for the board's action. A decision to continue certification with or without conditions is final.
- (F) Within ninety days of receiving a timely request for hearing, the board will schedule a hearing. Following the hearing, the board may then continue certification with or without conditions, suspend or revoke certification. The certified specialist must be provided with written notice of the reasons for the board's action.

Rule 3.124 adopted as Rule 3.125 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

Rule 3.125 Appeal of certification denial, suspension, or revocation

An applicant who is denied certification or recertification pursuant to Rule 3.120 (C)-(G) or a certified specialist whose certification is suspended or revoked pursuant to Rule 3.124(B) or (C) may file a petition for hearing in the State Bar Court in accordance with the rules of that court with the fee set forth in the Schedule of Charges and Deadlines no later than thirty days after the notice of denial, suspension or revocation is served on the applicant or certified specialist. A copy of the petition must be served on the board and the Office of the Chief Trial Counsel at the San Francisco office of the State Bar.

Rule 3.125 adopted as Rule 3.126 effective January 1, 2014; renumbered effective July 24, 2015; amended effective July 24, 2015.

Rule 3.126 Designation as certified specialist

Certification may be indicated by "Certified by The State Bar of California Board of Legal Specialization," the logo of the certified specialization program, or both. Certification is individual and may not be attributed to a firm. Anyone whose certification has been revoked or suspended may not claim to be certified specialist.

Rule 3.126 adopted as Rule 3.123 effective January 1, 2014; renumbered effective July 24, 2015.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 2. ~~ATTORNEY MEMBERS~~CALIFORNIA LICENSEES

Chapter 3. Law Corporations

(Formerly Chapter 2; renumbered effective November 4, 2011.)

Rule 3.150 Scope

- (A) Subject to Supreme Court approval, the State Bar is authorized by law to establish and enforce rules for corporations that practice law in California.¹ To practice law in California, a corporation must be certified by the California Secretary of State and registered by the State Bar. These rules refer to such a corporation as a law corporation.
- (B) These rules do not reiterate or supersede the State Bar Act,² statutory requirements for law corporations,³ or any other legal requirement.⁴
- (C) For law corporations, the governmental agency referred to in the Professional Corporation Act is the State Bar.⁵

Rule 3.150 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.151 Eligibility

A corporation, including a nonprofit public benefit corporation that applies to register as a law corporation must meet statutory requirements.⁶

Rule 3.151 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.152 Application to register as a law corporation

- (A) To apply to register as a law corporation an applicant must
 - (1) submit an Application to Register as a Law Corporation⁷ with the fee set forth in the Schedule of Charges and Deadlines; and

¹ Business & Professions Code § 6171.

² See especially Business & Professions Code, Article 10, §§ 6160-6172. See also State Bar Rule 1.4.

³ See especially Title 1, Part 4, Division 3 of the Corporations Code, commencing with section 13400 (Moscone-Knox Professional Corporation Act).

⁴ See especially *Frye v. Tenderloin Housing Clinic, Inc.* (2006) 38 Cal.4th 23, 40 Cal.Rptr.3d 221 regarding nonprofit public benefit corporations.

⁵ Business & Professions Code § 6160.

⁶ Business & Professions Code § 6161 and Corporations Code § 13406.

⁷ Business & Professions Code § 6161.

- (2) provide the proof of security for claims required by Rule 3.158.⁸
- (B) The name under which the law corporation intends to practice law must include a designation of corporate existence such as "Professional Corporation," "Prof. Corp.," "Corporation," "Corp," "Incorporated," or "Inc."⁹
- (C) The effective date of registration as a law corporation is the date an applicant files a complete application.¹⁰ The State Bar has discretion to grant a later effective date requested by the applicant.

Rule 3.152 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.153 Amendment or abandonment of incomplete application

If the State Bar notifies an applicant that an Application to Register as a Law Corporation is incomplete or otherwise fails to meet application requirements, it must provide the applicant at least sixty days to amend the application. If the applicant fails to meet application requirements within this time, the application is deemed withdrawn.

Rule 3.153 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.154 Duties of a law corporation

- (A) A law corporation must have a currently effective certificate of registration issued by the State Bar; submit an Annual Renewal with any required fee,¹¹ unless exempt by these rules;¹² report to the State Bar within thirty days a change of address or e-mail address; and otherwise comply with these rules and applicable law.
- (B) A law corporation may practice law only under the name registered with the Secretary of State and approved by the State Bar. Use of the name must comply with requirements of the Rules of Professional Conduct.¹³
- (C) A law corporation must observe all rules and law that apply to a ~~member~~licensee of the State Bar and must not do or fail to do anything that would constitute a cause for discipline of a ~~member~~licensee.¹⁴
- (D) A law corporation employing an attorney who has resigned, been disbarred, been suspended from the practice of law, or resigned with charges pending

⁸ Business & Professions Code § 6171(b).

⁹ Business & Professions Code § 6171(c).

¹⁰ Rule 1.24.

¹¹ Rule 3.156.

¹² Rule 3.156(C).

¹³ Business & Professions Code § 6171(c).

¹⁴ Business & Professions Code § 6167.

- (1) may not permit the attorney to practice law or represent that he or she is available to practice law and must supervise the performance of any duties assigned to such an attorney;¹⁵ and
- (2) must remove the name of any attorney who is disbarred or resigned with charges pending from its business name, signs, advertisements, letterhead, and other materials within sixty days of the disbarment or resignation.¹⁶

Rule 3.154 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.155 Special reports

- (A) A law corporation must submit within forty-five days as a Special Report any change in directors, officers, share ownership, articles of incorporation, or bylaws.¹⁷
- (B) This rule does not apply to a qualified legal services project or qualified support center¹⁸ incorporated as a nonprofit public benefit corporation.¹⁹

Rule 3.155 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.156 Annual renewal²⁰

- (A) A law corporation must annually renew its authorization to practice law by submitting an Annual Renewal with the fee set forth in the Schedule of Charges and Deadlines. The form must report any changes to the information last provided to the State Bar in an Annual Renewal, a special report, or a Law Corporation Guarantee. If the information required for the guarantee has changed, the renewal must also include a current guarantee executed by all shareholders. The deadline for submission of the Annual Renewal and the amount of the fee are set forth in the Schedule of Charges and Deadlines.
- (B) A law corporation that fails to submit a complete Annual Renewal and fee is suspended and is not entitled to practice law. It may be reinstated upon submission within one year of the renewal, fee, and any penalty. If the suspension lasts more than one year, the registration of the law corporation is involuntarily terminated.

¹⁵ Business & Professions Code § 6133. See Rule 1-311, Rules of Professional Conduct of the State Bar of California.

¹⁶ Business & Professions Code § 6132.

¹⁷ Business & Professions Code § 6162.

¹⁸ Business & Professions Code §§ 6213(a) and 6213(b).

¹⁹ Corporations Code § 13406(c).

²⁰ Business & Professions Code §§ 6161.1, 6163.

- (C) This rule does not apply to a qualified legal services project²¹ or qualified support center²² incorporated as a nonprofit public benefit corporation.²³

Rule 3.156 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.157 Shares

- (A) A shareholder of a law corporation must be licensed and entitled to practice law.²⁴
- (B) The shares of a law corporation must be owned only by that corporation or a shareholder.²⁵
- (C) The shares of a deceased shareholder must be sold or transferred to the law corporation or its shareholders within six months and one day following the date of death.²⁶
- (D) The share certificates of the law corporation must set forth the preceding restrictions of this rule regarding ownership, sale, or transfer of shares. These restrictions must also be set forth in the articles of incorporation or bylaws.
- (E) The shares of a shareholder who is ineligible to practice law or legally disqualified²⁷ to render professional services to the law corporation must be sold or transferred to a qualified shareholder within ninety days after the date of ineligibility or disqualification. The terms of such a sale or transfer of shares must be set forth in the articles, the bylaws, or a written agreement.
- (F) The shares of a shareholder disqualified for any reason may be resold to that shareholder upon his or her becoming eligible to practice law.
- (G) This rule does not apply to nonprofit public benefit corporations.

Rule 3.157 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.158 Security

- (A) Each law corporation must provide the State Bar with proof of security for claims for errors and omissions of the corporation or any person who practices law on behalf of the corporation, on its behalf as an employee or otherwise. The law

²¹ Business & Professions Code § 6213(a).

²² Business & Professions Code § 6213(b).

²³ Corporations Code § 13406(c).

²⁴ Business & Professions Code § 6165.

²⁵ Corporations Code § 13406(a).

²⁶ Business & Professions Code §§ 6171(a) & 6171.1.

²⁷ Business & Professions Code §§ 6166, 6171(a), and Corporations Code § 13401(e).

corporation must provide proof of security with its Application to Register as a Law Corporation and provide new proof of security when that last provided is no longer current. Proof of security must be provided as indicated below.

- (1) All law corporations, except as otherwise provided in this rule, must provide a Law Corporation Guarantee providing that the shareholders jointly and severally agree to pay all claims established against the law corporation for errors and omissions arising out of the rendering of professional services. The guarantee must name each shareholder and be executed by each.²⁸
 - (2) A nonprofit public benefit corporation²⁹ must provide a certificate of annual insurance.
 - (3) Law corporations incorporated and registered with the State Bar before October 27, 1971, and that have elected to provide security by insurance, must provide a certificate of insurance.
- (B) For purposes of determining the amount required as proof of security, a person who practices law on behalf of a law corporation includes
- (1) any employee, other person, or partnership in which the law corporation is a partner and that the law corporation holds out as being of counsel or otherwise available to practice law on behalf of the law corporation; and
 - (2) any association that has a continuous relationship with the law corporation for the practice of law, or that the association, with the consent of the law corporation, holds out as being of counsel or otherwise available to practice law on behalf of the association.
- (C) The Schedule of Charges and Deadlines sets forth the minimum amount of security that a law corporation must provide annually for a single claim and for all claims, whether against the corporation or a person practicing law on behalf of the corporation.

*Rule 3.158 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.
Amended March 2, 2012; amendment approved by the Supreme Court effective December 1, 2014.*

Rule 3.159 Voluntary termination of registration

A law corporation may by resolution request that the State Bar terminate its registration. The date of termination will be the date of the resolution, a later date requested by the law corporation, or an earlier date at the discretion of the State Bar.

²⁸ Business & Professions Code § 6171(b).

²⁹ Corporations Code § 13406(b).

Rule 3.159 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011. Amended March 2, 2012; amendment approved by the Supreme Court effective December 1, 2014.

Rule 3.160 Involuntary termination of registration

- (A) A law corporation that fails to submit a complete Annual Renewal and fee is suspended and is not entitled to practice law.³⁰
- (B) The State Bar may terminate the certification of a law corporation for failure to comply with these rules or applicable law.³¹ Termination is effective sixty days after it has issued a notice to the law corporation stating the grounds for the termination. The law corporation may request Supreme Court review of the termination.³²

Rule 3.160 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

Rule 3.161 Public information

State Bar records regarding the certification of a law corporation are public information, except for correspondence, internal memoranda, complaints, and any other document for which disclosure is prohibited by law.

Rule 3.161 adopted September 22, 2010; approved by the Supreme Court effective April 15, 2011.

³⁰ Rule 3.156(B).

³¹ Business & Professions Code § 6169.

³² Rule of Court 9.13(d). And see Business & Professions Code § 6170.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 2. ~~ATTORNEY MEMBERS~~CALIFORNIA LICENSEES

Chapter 4. Limited Liability Partnerships

(Formerly Chapter 3; renumbered effective November 4, 2011.)

Rule 3.170 Scope

Under California law, a limited liability partnership that provides professional legal services is not entitled to limitation of liability for acts, errors, or omissions arising out of the rendering of such services unless the partnership has a currently effective certificate of registration issued by the State Bar.¹ These rules apply to California limited liability partnerships issued a certificate of registration by the State Bar in accordance with these rules.² These rules refer to such certified partnerships as “limited liability partnerships.”

*Rule 3.170 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.
Amended March 2, 2012; amendment approved by the Supreme Court effective December 1, 2014.*

Rule 3.171 Eligibility

- (A) A limited liability partnership certified by the California Secretary of State pursuant to Corporations Code Sections 16953 or 16959 may apply for State Bar certification as a limited liability partnership, provided each partner is an active ~~member~~licensee of the State Bar,³ licensed and entitled to practice law in another jurisdiction, or a law corporation that is licensed or entitled to practice law.
- (B) A partner or an employee of a limited liability partnership who practices law in California must be an active ~~member~~licensee of the State Bar or otherwise authorized to practice law in California.
- (C) The name proposed for the limited liability partnership must include "Registered Limited Liability Partnership," "Limited Liability Partnership," "L.L.P.," "LLP," "R.L.L.P.," or "RLLP."

Rule 3.171 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

Rule 3.172 Application for certification as a limited liability partnership

¹ Corporations Code § 16306(f).

² Business and Professions Code §§ 6174-6174.5

³ Business and Professions Code § 6125.

- (A) To apply to be certified as a limited liability partnership an applicant must
- (1) submit an Application for Certification as a Limited Liability Partnership with the application fee set forth in the Schedule of Charges and Deadlines;
 - (2) submit on a separate State Bar form a statement that the limited liability partnership has complied with any security requirement prescribed by statute⁴ and these rules; and
 - (3) verify compliance with the eligibility requirements of these rules; a partner licensed in a foreign country but not in California or any other United States jurisdiction must provide by a certificate issued by the authority having final jurisdiction over the practice of law verifying admission to the practice law, the date of admission, and current good standing, along with an English translation if the certificate is not in English.
- (B) The effective date of certification as a limited liability partnership is the date the State Bar receives a complete application.⁵ The State Bar has discretion to grant a later effective date requested by the applicant.

*Rule 3.172 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.
Amended March 2, 2012; amendment approved by the Supreme Court effective December 1, 2014.*

Rule 3.173 Amendment or abandonment of incomplete application

If the State Bar notifies an applicant that an Application for Certification as a Limited Liability Partnership is incomplete or otherwise fails to comply with application requirements, it must provide the applicant at least sixty days to amend the application. If the applicant fails to meet application requirements within this time, the application is deemed withdrawn.

Rule 3.173 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

Rule 3.174 Duties of a limited liability partnership

- (A) To maintain certification as a limited liability partnership in California, a limited liability partnership must have a currently effective certificate of registration issued by the State Bar, submit an Annual Renewal with any required fee,⁶ and otherwise comply with these rules and applicable law.

⁴ Business and Professions Code § 6174.5

⁵ Rule 1.24.

⁶ Rule 3.176.

- (B) The limited liability partnership may practice law only under the name certified by the Secretary of State and approved by the State Bar.⁷ Use of the name must comply with the requirements of the Rules of Professional Conduct.⁸
- (C) A limited liability partnership employing an attorney who has resigned, been disbarred, been suspended from the practice of law, or resigned with charges pending
 - (1) may not permit the attorney to practice law or represent that he or she is available to practice law and must supervise the performance of any duties assigned to such an attorney;⁹ and
 - (2) must remove the name of any attorney who is disbarred or resigned with charges pending from its business name, signs, advertisements, letterhead, and other materials within sixty days of the disbarment or resignation.¹⁰

Rule 3.174 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

Rule 3.175 Special reports

A limited liability partnership must report within forty-five days any change in name used for the practice of law, partner authorized to act on its behalf, address, or e-mail address.

Rule 3.175 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

Rule 3.176 Annual renewal

- (A) A limited liability partnership must annually renew its certification as a limited liability partnership by submitting an Annual Renewal with the fee set forth in the Schedule of Charges and Deadlines. The Annual Renewal must report any changes to the information last provided in an Annual Renewal or Special Report. The deadline for submission of the Annual Renewal and the amount of the fee are set forth in the Schedule of Charges and Deadlines.
- (B) A limited liability partnership that fails to submit a complete Annual Renewal and fee is suspended and loses its status as a limited liability partnership. It may be reinstated upon submission within one year of the renewal, fee, and any penalty. If the suspension lasts more than one year, the certification of the limited liability partnership is involuntarily terminated.

⁷ Corporations Code § 16952.

⁸ See especially Rules of Professional Conduct, Rule ~~4-400~~[7.5](#).

⁹ Business & Professions Code § 6133. See Rule ~~4-311~~[5.3.1](#), Rules of Professional Conduct of the State Bar of California.

¹⁰ Business & Professions Code § 6132.

Rule 3.176 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

Rule 3.177 Security

- (A) A limited liability partnership must maintain security for claims against it for acts, errors, and omissions arising out of the practice of law as required by Corporations Code Section 16956(a)(2).
- (B) The security for claims required by Corporations Code Section 16956(a)(2) includes
 - (1) any person, law corporation, or other entity that practices law on behalf of the limited liability partnership or that the limited liability partnership holds out as being of counsel or otherwise available to practice law on its behalf; and
 - (2) any association that has a continuous relationship with the limited liability partnership for the practice of law or that holds out the limited liability partnership, with the consent of the limited liability partnership, as being of counsel or otherwise available to practice law on behalf of the association.

Rule 3.177 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

Rule 3.178 Voluntary termination of certification

To terminate State Bar certification, a limited liability partnership must provide the State Bar with a document certified by the Secretary of State showing that the limited liability partnership is no longer a limited liability partnership. The termination is effective as of the date that the Secretary of State dissolved the limited liability partnership.

Rule 3.178 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

Rule 3.179 Involuntary termination of certification

- (A) The State Bar must terminate certification of a limited liability partnership if there is only one partner in the limited liability partnership or it is notified that the limited liability partnership has been suspended by the California Secretary of State. Termination is effective immediately.
- (B) A limited liability partnership that is suspended for more than one year for failure to submit a complete Annual Renewal and fee is terminated.¹¹ Termination is effective the day after the one year anniversary of the suspension.
- (C) The State Bar may terminate the certification of a limited liability partnership for failure to comply with these rules or applicable law. Except as this rule provides

¹¹ Rule 3.176(B).

otherwise, termination is effective sixty days after the State issues a notice to the limited liability partnership stating the grounds for the termination. The partnership may request Supreme Court review of any termination.¹²

*Rule 3.179 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.
Amended March 2, 2012; amendment approved by the Supreme Court effective December 1, 2014.*

Rule 3.180 Public information

State Bar records regarding the certification of a limited liability partnership are public information, except for correspondence, internal memoranda, complaints, and any other document for which disclosure is prohibited by law.

Rule 3.180 adopted March 6, 2010; approved by the Supreme Court effective November 1, 2011.

¹² Rule of Court 9.13(d).

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 2. ~~ATTORNEY MEMBERS~~CALIFORNIA LICENSEES

Chapter 5. Lawyer Assistance Program

(Formerly Chapter 6; renumbered effective November 4, 2011.)

Rule 3.240 Purpose of the Lawyer Assistance Program

The Board of Trustees of the State Bar of California ("Board") has established a Lawyer Assistance Program ("LAP") to enhance public protection by rehabilitating ~~members~~licensees and former ~~members~~licensees of the State Bar and candidates for admission to the practice of law who are impaired by abuse of alcohol or drugs, or by mental illness, so that they are able to practice law competently.

Rule 3.240 adopted effective January 9, 2010; amended effective January 1, 2012.

Rule 3.241 Lawyer Assistance Program Oversight Committee

- (A) A Lawyer Assistance Program Oversight Committee ("committee") of twelve members, six of whom are appointed by the Board as required by statute,¹ is authorized to establish and implement criteria for LAP participation and completion, and to otherwise oversee LAP operation.
- (B) The Board annually appoints a committee chair and vice chair. To be eligible for appointment, a committee member must have served on the committee for at least one year and have at least one year remaining in his or her term. A member seeking appointment or reappointment must provide a written statement of qualifications in accordance with instructions of the current chair.

Rule 3.241 adopted effective January 9, 2010.

Rule 3.242 Duties of oversight committee

- (A) The committee is to meet regularly at locations within California. Special meetings may be called by the chair or vice chair and must be held at the State Bar offices in San Francisco or Los Angeles. Meetings must comply with State Bar requirements.²
- (B) The committee may authorize subcommittees of two or more members of the committee to transact business on its behalf.
- (C) The committee must maintain records that enable it to respond promptly to State Bar requests for information regarding financial assistance loans and collections

¹ Business & Professions Code § 6231.

² See State Bar Rules 6.60-6.65.

and must report annually to the Board and Legislature on the operation of the LAP.

Rule 3.242 adopted effective January 9, 2010; amended effective November 16, 2018.

Rule 3.243 Confidentiality

Except as permitted by law or these rules, participant information provided to or obtained by the LAP or any of its agents is confidential unless confidentiality is waived in writing by the participant.³

Rule 3.243 adopted effective January 9, 2010.

Rule 3.244 Eligibility

- | (A) The LAP is open to active, inactive, and former ~~members~~licensees of the State Bar, and candidates for admission. For purposes of this Chapter, “candidates for admission” means applicants who are in law school or have applied for admission to the State Bar. To participate in the LAP, an applicant must
 - (1) voluntarily agree to participate;
 - (2) provide medical information and disclosure authorizations as required; and
 - (3) sign a participation agreement that includes a promise to comply with all LAP recommendations.
- (B) Participation in the LAP does not relieve a participant of any duty required by agreement or stipulation with the Office of the Chief Trial Counsel, by court order, or by any law relating to attorney conduct or discipline.

Rule 3.244 adopted effective January 9, 2010; amended effective January 1, 2018.

Rule 3.245 Orientation and Assessment

- | All attorneys, former ~~members~~licensees of the State Bar and candidates for admission are eligible to participate in the Orientation and Assessment (“O&A”). The O&A is also a prerequisite for participation in the Support LAP or the Monitored LAP. The O&A includes one or more of the following:
 - (A) assessment by a LAP case manager;
 - (B) referral to external resources and treatment providers;
 - (C) up to four sessions in a LAP-facilitated support group;
 - (D) up to two sessions of personal, career, or financial counseling; and

³ Business & Professions Code § 6234.

- (E) volunteer support.

Rule 3.245 adopted effective January 9, 2010.

Rule 3.246 Application

| An eligible ~~member~~licensee, former ~~member~~licensee, or candidate for admission who wishes to continue participating in the LAP must apply for either the Support LAP or the Monitored LAP. The LAP's Clinical Review Team reviews the applications and may deny an application if it determines that

- (A) the applicant does not meet eligibility criteria;
- (B) the applicant will not substantially benefit from the LAP; or
- (C) the applicant's participation would be inconsistent with public protection.

Rule 3.246 adopted effective January 9, 2010; amended effective November 16, 2018.

Rule 3.247 Support LAP

- | (A) The Support LAP is open to ~~members~~licensees and former ~~members~~licensees of the State Bar, and candidates for admission who have completed the O&A and do not require the LAP to verify their participation or provide any other monitoring report.
- (B) For the first six months, the Support LAP includes
 - (1) a plan of structured rehabilitation activities;
 - (2) oversight and support by LAP staff;
 - (3) participation in a LAP-facilitated support group, if directed; and
 - (4) laboratory testing as directed.
- (C) After six months, the Support LAP includes
 - (1) a plan of structured rehabilitation activities;
 - (2) oversight and support from a LAP volunteer; and,
 - (3) participation in a LAP-facilitated group if desired.

Rule 3.247 adopted effective January 9, 2010.

Rule 3.248 Monitored LAP

- | (A) The Monitored LAP is open to ~~members~~licensees and former ~~members~~licensees of the State Bar or candidates for admission who have completed the O&A and

who require the LAP to verify their participation in the LAP for the Office of Chief Trial Counsel, the State Bar Court, the Committee of Bar Examiners, or any other entity.

- (B) The applicant for the Monitored LAP must have a diagnosed substance-related or mental health disorder to participate.
- (C) The Monitored LAP includes
 - (1) a plan of structured rehabilitation activities;
 - (2) oversight and support by LAP staff;
 - (3) participation in a LAP-facilitated support group, if directed;
 - (4) laboratory testing as directed; and
 - (5) verification of participation and compliance by the LAP.

Rule 3.248 adopted effective January 9, 2010.

Rule 3.249 Completion of LAP

A participant is deemed to have completed the LAP when the LAP's Clinical Review Team determines that the participant:

- (A) has maintained three years of continuous sobriety or, in cases of mental health, stability;
- (B) has made lifestyle changes sufficient to maintain ongoing sobriety or stability; and
- (C) has satisfied the terms of the participation agreement.

Rule 3.249 adopted effective January 9, 2010; amended effective November 16, 2018.

Rule 3.250 Termination from the LAP

A participant may be terminated from the LAP if the LAP's Clinical Review Team determines that:

- (A) the participant will not substantially benefit from the LAP;
- (B) further participation would be inconsistent with the LAP's mission of public protection; or
- (C) the participant failed to satisfy the terms of the participation agreement.

Rule 3.250 adopted effective January 9, 2010; amended effective November 16, 2018.

Rule 3.251 Costs and Fees

A participant is responsible for all LAP-related expenses and may be charged a reasonable fee for administrative costs. Financial assistance is available to eligible participants as provided by these rules.

Rule 3.251 adopted effective January 9, 2010.

Rule 3.252 Financial Assistance

- (A) A LAP participant who is an active or inactive California attorney, former California attorney, or candidate for admission, may be eligible for financial assistance in the form of a loan from the State Bar.
- (B) The loan covers no more than one year of participation in the LAP per ~~member~~ [licensee](#). Loan proceeds are dispersed directly to approved service providers. Unless determined otherwise by the committee, covered services are limited to LAP group fees and laboratory testing fees.
- (C) To obtain a loan, the participant must submit a completed application provided by the LAP and provide all requested information. Eligibility is based upon a current income formula determined by the committee. Loans are made solely on the basis of financial need.
- (D) The loan recipient is liable for all sums distributed to service providers on his or her behalf. If a loan recipient ceases to be a LAP participant, the total amount loaned on behalf of the participant becomes immediately due and payable to the State Bar by the participant. Arrangements may be made to repay the loan, with interest, in installment payments.
- (E) A LAP participant who received financial assistance before the effective date of this rule is bound by the terms of any agreement applicable to that assistance.

Rule 3.252 adopted effective January 9, 2010; amended effective November 16, 2018.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 2. ~~ATTORNEY MEMBERS~~CALIFORNIA LICENSEES

Chapter 6. Pro Bono Practice Attorneys

(Formerly Chapter 8; renumbered effective November 4, 2011.)

Rule 3.325 Definitions

- (A) The “Pro Bono Practice Program” is a program for active ~~members~~licensees of the State Bar who would otherwise be inactive to provide free legal assistance exclusively for a qualified legal services provider, for the no-fee panel or pro bono clinic of a certified lawyer referral service or for a court-based self-help center.
- (B) A “pro bono practice attorney” is an active ~~member~~licensee of the State Bar who would otherwise be inactive but who provides free legal assistance exclusively for the Pro Bono Practice Attorney Program and engages in no other activities that require active status.
- (C) A “qualified legal services provider” receives or is eligible to receive funds from the Legal Services Trust Fund Program as either
 - (1) a “qualified legal services project,” which provides legal services in civil matters without charge to indigent persons;¹ or
 - (2) a “qualified legal services support center,” which provides legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects.²
- (D) A “certified lawyer referral service” is, for the purposes of the Pro Bono Practice Program, the no-fee panel or pro bono panel or clinic of a lawyer referral service certified by the State Bar as meeting statutory criteria.³
- (E) A “court-based self-help center” is, for the purposes of the Pro Bono Practice Program, a self-help program that is in compliance with California Rule of Court 10.960.

Rule 3.325 adopted effective July 20, 2007, amended effective July 11, 2008; amended effective July 20, 2012.

Rule 3.326 Waiver of annual ~~membership~~license fees

¹ Business & Professions Code §§ 6213 – 6214.5.

² Business and Professions Code §§ 6213 and 6215.

³ Business & Professions Code § 6155.

The State Bar waives annual active ~~membership~~-license fees for ~~members~~licensees who act exclusively as pro bono practice attorneys for an entire calendar year. ~~Members~~Licensees who are pro bono practice attorneys for less than a calendar year must pay annual ~~membership~~-license fees.

Rule 3.326 adopted effective July 20, 2007, amended effective July 11, 2008.

Rule 3.327 Eligibility requirements

To serve as a pro bono practice attorney, a ~~member~~licensee must

- (A) be a ~~member~~licensee in good standing with no disciplinary charges pending at the time of application to the Pro Bono Practice Program;
- (B) at the time of application have been admitted to the practice of law in California for at least three years preceding the application;
- (C) have practiced law or served as a judge in California for at least three of the last five years;
- (D) have no record of public discipline during the three years preceding the application;
- (E) submit an application annually for the Pro Bono Practice Program; and
- (F) be certified by the State Bar as a pro bono practice attorney.

Rule 3.327 adopted effective July 20, 2007, amended effective July 11, 2008; amended effective July 20, 2012.

Rule 3.328 Waiver of an eligibility requirement

The Secretary may waive a pro bono practice attorney requirement, such as the extent to which a ~~member~~licensee otherwise meets the requirements, the need for legal assistance in a particular place, or a ~~member's~~licensee's experience in providing pro bono legal assistance or for other good cause.

Rule 3.328 adopted effective July 20, 2007, amended effective July 11, 2008; amended effective July 20, 2012.

Rule 3.329 Responsibilities of a pro bono practice attorney

A pro bono practice attorney must

- (A) provide legal assistance exclusively as a Pro Bono Practice Attorney and not otherwise engage in activities that require active status;

- (B) provide legal assistance for a qualified legal services provider, a certified lawyer referral service or a court-based self-help center;
- (C) accept no compensation for legal services, except for reimbursement of expenses incurred while rendering services under these rules;
- (D) comply with State Bar Rules on Minimum Continuing Legal Education and all other rules and laws applicable to active State Bar ~~members~~licensees;
- (E) notify the State Bar within thirty days of withdrawing from the program;
- (F) agree with the qualified legal services provider, certified lawyer referral service or court-based self-help center to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum;
- (G) submit an application annually; and
- (H) disclose any disciplinary charges to the qualified legal services provider, certified lawyer referral service or court-based self-help center as part of the attorney's continuing duty.

Rule 3.329 adopted effective July 20, 2007, amended effective July 11, 2008; amended effective July 20, 2012.

Rule 3.330 Responsibilities of a qualified legal services provider or certified lawyer referral service or court-based self-help center

A qualified legal services provider, certified lawyer referral service or court-based self-help center that uses the services of a pro bono practice attorney must

- (A) notify the State Bar that a ~~member~~licensee has applied to serve as a pro bono practice attorney for the provider, service or center;
- (B) indicate whether the application will be accepted if the State Bar certifies the ~~member~~licensee as a pro bono practice attorney;
- (C) provide no compensation to the pro bono practice attorney, except for reimbursement of expenses; and
- (D) notify the State Bar within thirty days of the pro bono practice attorney withdrawing from the program;
- (E) provide adequate support and supervision to each pro bono practice attorney;
- (F) agree with the pro bono practice attorney to provide a minimum number of hours of pro bono legal services annually, 100 hours being the recommended minimum; and

(G) submit application annually for each pro bono practice attorney.

Rule 3.330 adopted effective July 20, 2007, amended effective July 11, 2008; amended effective July 20, 2012.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 3. NON-MEMBER LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 1. Registered Legal Services Attorneys

Rule 3.360 Definitions

- (A) A “Registered Legal Services Attorney” is an attorney who meets the eligibility requirements of Rule 9.45 of the California Rules of Court (“Rule 9.45”) and is registered by the State Bar as a Registered Legal Services Attorney.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Legal Services Attorney.
- (C) A “qualifying legal services provider” is an entity or program that meets the requirements of Rule of Court 9.45(a)(1) or that receives a grant from the Legal Services Trust Fund.¹

Rule 3.360 adopted effective July 1, 2010

Rule 3.361 Application

- (A) To apply to register as a Registered Legal Services Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.45 must
 - (1) submit an Application for Registration² as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;³
 - (2) submit an Application for Registered Legal Services Attorney⁴ with the fee set forth in the Schedule of Charges and Deadlines;
 - (3) meet State Bar requirements for acceptable moral character; and
 - (4) submit a Declaration of Qualifying Legal Services Provider.

¹ See Rules 3.670(A), 3.671(A), and 3.680.

² See Rule 4.16(B).

³ See Rule 4.3(B).

⁴ See Rule of Court 9.44.

- (B) An application to practice law as a Registered Legal Services Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

Rule 3.361 adopted effective July 1, 2010

Rule 3.362 Duties of Registered Legal Services Attorney

An attorney employed as Registered Legal Services Attorney must

- (A) annually renew registration as a Registered Legal Services Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of three years as a Registered Legal Services Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.45;
- (D) report a change of attorney supervisor in accordance with State Bar requirements;
- (E) use the title "Registered Legal Services Attorney" and no other in connection with activities performed as a Registered Legal Services Attorney;
- | (F) not claim in any way to be a ~~member~~licensee of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney's employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
 - (1) a change in status in any jurisdiction where admitted to practice law and engaged in the practice of law, such as transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent;
 - (2) termination of employment with the qualifying legal services provider; or
 - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (I) submit a new application to register as a Registered Legal Services Attorney before beginning employment with a new qualifying legal services provider; and

- (J) otherwise comply with the requirements of Rule 9.45 and these rules.

Rule 3.362 adopted effective July 1, 2010

Rule 3.363 Duties of employer

An employer who meets the requirements of Rule 9.45 for a qualifying legal services provider must

- (A) at all times meet the statutory requirements for a legal services project or be the recipient of a grant from the Legal Services Trust Fund;⁵
- (B) complete the Application for Approval as Qualifying Legal Services Provider and be approved by the State Bar as a qualifying employer;
- (C) before employing a Registered Legal Services Attorney, complete a Declaration of Qualifying Legal Services Provider attesting that it
 - (1) is a qualifying legal services provider;
 - (2) agrees to supervise the Registered Legal Services Attorney (“attorney”) and otherwise comply with the requirements of Rule 9.45 and these rules;
 - (3) deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
 - (4) agrees to notify the State Bar of California, in writing, within thirty days if
 - (a) the attorney has terminated employment;
 - (b) the attorney is no longer eligible for employment as required by Rule 9.45 and these rules;
 - (c) the supervising attorney no longer meets the requirements of these rules;
 - (d) its status as a qualifying legal services provider has changed; or
 - (e) it has changed its office address; and
- (D) comply with State Bar quality control procedures for qualifying legal services providers.

Rule 3.363 adopted effective July 1, 2010

⁵ Business & Professions Code §§ 6213 and 6214(b)(3)(B).

Rule 3.364 Suspension of Legal Services Attorney registration

- (A) Registration as a Legal Services Attorney is suspended
- (1) for failure to annually register as a Registered Legal Services Attorney and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;
 - (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule of Court 9.45 and to pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;
 - (3) upon transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent in status in any jurisdiction where admitted to practice law;
 - (4) upon imposition of discipline by a professional or occupational licensing authority; or
 - (5) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a ~~member~~licensee of the State Bar.
- (B) An attorney suspended under these rules is not permitted to practice law during the suspension. An attorney suspended for failure to comply with annual registration requirements may be reinstated upon compliance.
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

Rule 3.364 adopted effective July 1, 2010

Rule 3.365 Termination of Registration

Permission to practice law as a Registered Legal Services Attorney terminates

- (A) upon failure to meet the eligibility requirements of Rule 9.45 or these rules;
- (B) as required by Rule 9.45 or these rules;
- (C) upon admission to the State Bar;

(D) upon repeal of Rule 9.45 or termination of the Registered Legal Services Attorney program; or

(E) upon request.

Rule 3.365 adopted effective July 1, 2010

Rule 3.366 Reinstatement after termination

An attorney terminated as a Registered Legal Services Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

Rule 3.366 adopted effective July 1, 2010

Rule 3.367 Public information

State Bar records for attorneys permitted to practice law as Registered Legal Services Attorneys are public to the same extent as ~~member~~[licensee](#) records.

Rule 3.367 adopted effective July 1, 2010

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 3. NON-MEMBER LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 2. Registered In-House Counsel

Rule 3.370 Definitions

- (A) An attorney registered as Registered In-House Counsel is an attorney who meets the eligibility requirements of Rule 9.46 of the California Rules of Court (“Rule 9.46”) and is registered by the State Bar as Registered In-House Counsel.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as Registered In-House Counsel.
- (C) A “qualifying institution” is a corporation, a partnership, an association, or other legal entity that meets the requirements of Rule of Court 9.46(a)(1).

Rule 3.370 adopted effective July 1, 2010

Rule 3.371 Application

- (A) To apply to register as Registered In-House Counsel, an attorney who meets the eligibility and employment requirements of Rule 9.46 must
 - (1) submit an Application for Registration¹ as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;²
 - (2) submit an Application for Registered In-House Counsel³ with the fee set forth in the Schedule of Charges and Deadlines;
 - (3) meet State Bar requirements for acceptable moral character; and
 - (4) submit a Declaration of Qualifying Institution.⁴

¹ See Rule 4.16(B).

² See Rule 4.3(B).

³ See Rule of Court 9.46(d).

⁴ Rule of Court 9.46(a)(1).

- (B) An application to practice law as Registered In-House Counsel may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact in the application.

Rule 3.371 adopted effective July 1, 2010

Rule 3.372 Duties of Registered In-House Counsel

An attorney employed as Registered In-House Counsel must

- (A) annually renew registration as Registered In-House Counsel and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.46;
- (C) use the title “Registered In-House Counsel” and no other in connection with activities performed as Registered In-House Counsel;
- | (D) not claim in any way to be a ~~member~~licensee of the State Bar of California;
- (E) maintain an address of record with the State Bar, which must be the current California office address of the attorney’s employer and a current e-mail address;
- (F) report to the State Bar within thirty days
 - (1) a change in status in any jurisdiction where admitted to practice law and engaged in the practice of law, such as transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent;
 - (2) termination of employment with the qualifying institution; or
 - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (G) submit a new application to register as Registered In-House Counsel before beginning employment with a new qualifying institution;⁵ and
- (H) otherwise comply with the requirements of Rule 9.46 and these rules.

Rule 3.372 adopted effective July 1, 2010

Rule 3.373 Duties of employer

⁵ Rule of Court 9.46(a)(1).

- (A) A qualifying institution prospectively employing of an attorney applying for registration as Registered In-House Counsel must complete a Declaration of Qualifying Institution.
- (B) Within thirty days of ceasing to meet the requirements of Rule of Court 9.46(a), an employer of Registered In-House Counsel must report that to the State Bar that it is no longer a qualifying institution.

Rule 3.373 adopted effective July 1, 2010

Rule 3.374 Suspension of Registered In-House Counsel registration

- (A) Registration as In-House Counsel is suspended
 - (1) for failure to annually register as Registered In-House Counsel and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;
 - (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule of Court 9.46 and pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;
 - (3) upon transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent in status in any jurisdiction where admitted to practice law;
 - (4) upon imposition of discipline by a professional or occupational licensing authority; or
 - (5) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a ~~member~~licensee of the State Bar.
- (B) An attorney suspended under these rules is not permitted to practice law. An attorney suspended for failure to comply with annual renewal or MCLE requirements may be reinstated upon compliance.
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

Rule 3.374 adopted effective July 1, 2010

Rule 3.375 Termination of Registration

Permission to practice law as Registered In-House Counsel terminates

- (A) upon failure to meet the eligibility requirements of Rule 9.46 or these rules;
- (B) as required by Rule 9.46 or these rules;
- (C) upon admission to the State Bar;
- (D) upon repeal of Rule 9.46 or termination of the Registered In-House Counsel program; or
- (E) upon request.

Rule 3.375 adopted effective July 1, 2010

Rule 3.376 Reinstatement after termination

An attorney terminated as Registered In-House Counsel who seeks reinstatement must meet all eligibility and application requirements of these rules.

Rule 3.376 adopted effective July 1, 2010

Rule 3.377 Public information

State Bar records for attorneys permitted to practice law as Registered In-House Counsel are public to the same extent as ~~member~~licensee records.

Rule 3.377 adopted effective July 1, 2010

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 3. NON-MEMBER LICENSEE ATTORNEYS

Chapter 2. Out-of-State Attorney Arbitration Counsel

Rule 3.380 Compliance procedure

To appear as Out-of-State Attorney Arbitration counsel, an attorney who meets the eligibility requirements of Code of Civil Procedure § 1282.4 and Rule 9.43 of the California Rules of Court ("Rule 9.43") must

- (A) be retained to appear in an arbitration in California in association with an active member licensee of the State Bar of California;
- (B) complete the Certificate of Out-of-State-Attorney Counsel for Arbitration, which includes an agreement to comply with the standards of professional conduct required of members licensees of the State Bar of California;
- (C) serve a copy of the completed certificate with an original signature and provide proof of service in accordance with California law¹ on
 - (1) the State Bar with the nonrefundable fee prescribed in the Schedule of Charges and Deadlines; and
 - (2) all other parties and counsel; and
- (D) obtain the approval of the arbitrator or the arbitral forum as indicated on the Certificate of Out-of-State-Attorney Counsel for Arbitration.

Rule 3.380 adopted effective July 1, 2010

Rule 3.381 Duration of certificate

An Out-of-State-Attorney Arbitration Counsel Certificate remains in effect

- (A) until resolution of the arbitration matter;
- (B) as long as an active member licensee of the State Bar of California is associated as attorney of record in the arbitration matter;

¹ Code of Civil Procedure § 1013a.

- (C) as long as the attorney complies with the requirements of Code of Civil Procedure 1284.4, Rule 9.43, and these rules;
- (D) unless the attorney is subject to disciplinary action by the California Supreme Court or the State Bar Court for failure to comply with the standards of professional conduct required of ~~members~~licensees of the State Bar of California;
- (E) unless discipline is imposed by a professional or occupational licensing authority;
- (F) unless the State Bar determines that the attorney has filed a certificate containing false information;
- (G) until the Out-of-State Attorney Arbitration Counsel is terminated; or
- (H) unless the attorney requests termination.

Rule 3.381 adopted effective July 1, 2010

Rule 3.382 Public information

State Bar records for attorneys permitted to practice law as Out-of-State Attorney Arbitration Counsel are public to the same extent as ~~member~~licensee records.

Rule 3.382 adopted effective July 1, 2010

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 3. NON-MEMBER LICENSEE ATTORNEYS

Chapter 4. Foreign Legal Consultants

Rule 3.400 Definitions

- (A) A “Registered Foreign Legal Consultant” is a person who meets the eligibility requirements of Rule of Court 9.44 of the California Rules of Court (“Rule 9.44”) and is registered by the State Bar as a Foreign Legal Consultant.
- (B) “Registered” means that the State Bar has issued a certificate of registration to a person it deems eligible to practice law as a Foreign Legal Consultant.

Rule 3.400 adopted effective July 1, 2010

Rule 3.401 Application

- (A) To practice law as a Registered Foreign Legal Consultant, a person who meets the eligibility requirements of the Rule 9.44 must
 - (1) submit an Application for Registration¹ as an attorney applicant for admission to the State Bar of California with the required certificate and the fee set forth in the Schedule of Charges and Deadlines;²
 - (2) submit an Application for Registered Foreign Legal Consultant³ with the fee set forth in the Schedule of Charges and Deadlines (the Schedule);
 - (3) meet State Bar requirements for acceptable moral character, which are set forth in the instructions for Application for Registered Foreign Legal Consultant;
 - (4) submit a letter of recommendation from an authorized representative of the professional body having final disciplinary jurisdiction or a judge of the highest law court or court of original jurisdiction attesting to his or her professional qualifications in the foreign jurisdiction.
- (B) An application to practice law as a Registered Foreign Legal Consultant may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

¹ See Rule 4.16(B).

² See Rule 4.3(B).

³ See Rule of Court 9.44.

- (C) Upon a showing of undue hardship by the applicant, the State Bar may waive or vary this rule's requirement of the letter of recommendation attesting to the applicant's professional qualifications.

Rule 3.401 adopted effective July 1, 2010

Rule 3.402 Duties of Registered Foreign Legal Consultants

A Foreign Legal Consultant must

- (A) annually renew registration as a Registered Foreign Legal Consultant and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) report to the State Bar within thirty days any change in eligibility or the security for claims required by these rules;
- (C) at all times maintain the security for claims required by these rules and upon demand promptly provide the State Bar with current evidence of security for claims;
- (D) provide legal advice in California exclusively regarding the law of a foreign jurisdiction where he or she is licensed to practice law and which is identified in the Application To Register as a Foreign Legal Consultant;
- (E) use the title "Registered Foreign Legal Consultant" and no other in connection with activities performed as a Registered Foreign Legal Consultant;
- (F) not claim in any way to be a ~~member~~licensee of the State Bar of California;
- (G) maintain an address of record and a current e-mail address with the State Bar; and
- (H) otherwise comply with Rule 9.44 and these rules.

Rule 3.402 adopted effective July 1, 2010

Rule 3.403 Security for claims

A Registered Foreign Legal Consultant must provide evidence of security for claims for pecuniary losses resulting from acts, errors, or omissions in the rendering of legal services. The security assets must be maintained at all times, and the State Bar may require current evidence of security for claims at any time. The evidence

- (A) may be a certificate of insurance, a letter of credit, a written guarantee, or a written agreement executed by the applicant;

- (B) must be provided in a form acceptable to the State Bar; and
- (C) must be computed in United States dollars.

Rule 3.403 adopted effective July 1, 2010

Rule 3.404 Insurance as security for claims

If insurance serves as security for claims, it must be acceptable to the State Bar and provide the Registered Foreign Legal Consultant a minimum amount of annual insurance and a maximum deductible. These amounts are specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

- (A) If the insurance excludes the cost of defense, the Registered Foreign Legal Consultant may reduce the minimum amount of annual insurance as specified in the Schedule.
- (B) If the insurance provides for a deductible greater than that specified in the Schedule, the Registered Foreign Legal Consultant must provide a letter of credit or a written agreement as evidence of security for the deductible.
- (C) If the insurance is provided by an insurer outside California, the Registered Foreign Legal Consultant must promptly provide, upon request of the State Bar, a copy of the insurance policy and a translation if the policy is not in English.

Rule 3.404 adopted effective July 1, 2010

Rule 3.405 Letter of credit as security for claims

If a letter of credit serves as security for claims, the Registered Foreign Legal Consultant must maintain the letter of credit at all times in the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

Rule 3.405 adopted effective July 1, 2010

Rule 3.406 Written guarantee as security for claims

If a written guarantee serves as security for claims, the Registered Foreign Legal Consultant must maintain the written guarantee at all times for a minimum amount in favor of the State Bar. The amount is specified in the Schedule for a single claim and for all claims.

- (A) The guarantor must be a California law firm or law corporation, an active ~~member~~[licensee](#) of the State Bar, or a financial institution.
- (B) The written guarantee must be supported by an independent accountant's certified financial statements and subsidiary records evidencing that tangible net

worth for the most recent fiscal year is equivalent to the minimum amount required for security for claims, exclusive of intangible assets such as good will, licenses, patents, trademarks, trade names, copyrights, and franchises. Net worth may include fifty percent of earned fees that have not been billed and billed fees that have not been collected.

Rule 3.406 adopted effective July 1, 2010

Rule 3.407 Written agreement as evidence of security for claims

If a Foreign Legal Consultant's written agreement serves as security for claims, the agreement must be for the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

Rule 3.407 adopted effective July 1, 2010

Rule 3.408 Suspension of registration as a Foreign Legal Consultant

(A) Registration as a Foreign Legal Consultant is suspended

- (1) for failure to annually register as a Foreign Legal Consultant and submit any related fee and penalty by the date set forth in the Schedule of Charges and Deadlines;
- (2) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a ~~member~~licensee of the State Bar; or
- (3) upon imposition of discipline by a professional or occupational licensing authority.

(B) A Foreign Legal Consultant suspended under these rules is not permitted to practice law during the suspension. A Foreign Legal Consultant suspended for failure to comply with annual registration requirements may be reinstated upon compliance.

(C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

Rule 3.408 adopted effective July 1, 2010

Rule 3.409 Termination of Registration

Permission to practice law as a Registered Foreign Legal Consultant terminates

- (A) upon failure to meet the eligibility requirements of Rule 9.44 or these rules;
- (B) as required by Rule 9.44 or these rules;
- (C) upon admission to the State Bar;
- (D) upon repeal of Rule 9.44 or termination of the Foreign Legal Consultants program; or
- (E) upon request.

Rule 3.409 adopted effective July 1, 2010

Rule 3.410 Reinstatement after termination

An attorney terminated as a Registered Foreign Legal Consultant who seeks reinstatement must meet all eligibility and application requirements of these rules. Reinstatement is effective from the date of compliance.

Rule 3.410 adopted effective July 1, 2010

Rule 3.411 Public information

State Bar records for attorneys permitted to practice law as Foreign Legal Consultants are public to the same extent as ~~member~~[licensee](#) records.

Rule 3.411 adopted effective July 1, 2010

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 4. CONSUMERS

Chapter 1. Client Security Fund

Article 1. In general

Rule 3.420 Client Security Fund

- (A) Pursuant to statute the Board of Trustees of the State Bar of California has established a Client Security Fund ("Fund") that may reimburse individuals who have suffered a loss of money or property because of the dishonest conduct of an attorney.¹ For the purposes of these rules, an attorney is a current or former ~~member~~ licensee of the State Bar of California, a Foreign Legal Consultant registered with the State Bar, or an attorney registered with the State Bar under the Multijurisdictional Practice Program.
- (B) Applications for reimbursement must meet the requirements of these rules, and payments from the Fund are solely within the discretion of the State Bar.
- (C) No person or entity has a right to reimbursement, and no person or entity, including a creditor or third-party beneficiary, has any right in the Fund.

Rule 3.420 adopted effective January 1, 2010; amended effective January 1, 2012; amended effective March 2, 2012.

Rule 3.421 Client Security Fund Commission

- (A) To administer the Client Security Fund, the Board of Trustees of the State Bar of California has established a Client Security Fund Commission ("Commission") to which it appoints seven members who serve at its pleasure or until the expiration of a term set by the Board. Four members at most may be present or former ~~members~~ licensees of the State Bar or admitted to practice before any court in the United States. The Commission has sole and final authority to determine whether to grant an application for reimbursement from the Client Security Fund and the extent and manner of any payment.
- (B) The vote of a majority of the commissioners present and voting at a Commission meeting constitutes the action of the Commission, unless the Commission or its chair has authorized a vote by poll, in which case a majority vote of commissioners then in office constitutes its action.

¹ Business & Professions Code § 6140.5.

- (C) The State Bar must provide the Commission with a staff headed by a Director who serves as counsel to the Commission by representing its interests and those of the Fund. The Director and any other staff who serve as counsel must be active ~~members~~licensees of the State Bar. In these rules, Director may also mean the Director's designee.
- (D) The reasonable expenses of the Commission and its staff may be charged to the Fund. These expenses include staff salaries and Fund-related costs of administration and litigation.

Rule 3.421 adopted effective January 1, 2010; amended effective January 1, 2012.

Article 2. Requirements for reimbursement; limitations and exclusions

Rule 3.430 General requirements for reimbursement

- (A) To qualify for reimbursement, an applicant must establish a loss of money or property that was received by an active attorney who was acting as an attorney or in a fiduciary capacity customary to the practice of law, for instance as an administrator, executor, trustee of an express trust, guardian, or conservator.
- (B) The loss must have been caused by dishonest conduct as defined in these rules.²
- (C) The attorney must have a status that meets the requirements of these rules.³
- (D) Even if an application meets these requirements, the Commission has sole discretion to deny or limit reimbursement. No person or entity has a right to reimbursement.⁴

Rule 3.430 adopted effective January 1, 2010.

Rule 3.431 Dishonest conduct

“Dishonest conduct” refers to any of the following:

- (A) Theft or embezzlement of money, the wrongful taking or conversion of money or property, or a comparable act.
- (B) Failure to refund unearned fees received in advance for services when the attorney performed an insignificant portion of the services or none at all. Such a failure constitutes a wrongful taking or conversion. All other instances of an

² See Rule 3.431.

³ See Rule 3.432.

⁴ Rule 3.420(C).

attorney's failure to return an unearned fee or the disputed portion of a fee are outside the scope of this provision and not reimbursable under these rules.

- (C) Borrowing money from a client without the intention or reasonable ability, present or prospective, of repaying it.
- (D) Obtaining money or property from a client for an investment that was not in fact made. Failure of an investment to perform as represented to or anticipated by a client is not dishonest conduct under these rules.
- (E) An act of intentional dishonesty or deceit that proximately leads to the loss of money or property.

Rule 3.431 adopted effective January 1, 2010.

Rule 3.432 Required status of attorney

- (A) To qualify for reimbursement, an application must establish that the attorney whose dishonest conduct is alleged has
 - (1) been disbarred, disciplined, or voluntarily resigned from the State Bar;
 - (2) died or been adjudicated mentally incompetent; or
 - (3) because of the dishonest conduct become a judgment debtor of the applicant in a contested proceeding or been convicted of a crime.
- (B) The Commission may waive provision (A) of this rule.

Rule 3.432 adopted effective January 1, 2010.

Rule 3.433 Excluded applicants

An applicant is excluded from receiving reimbursement from the Fund who

- (A) is or was related to the attorney as a spouse or domestic partner;
- (B) has a family relationship with the attorney, including one by adoption, as child, parent, grandchild, grandparent, or sibling;
- (C) lives or lived with the attorney;
- (D) has or had a business or other relationship with the attorney as an associate, partner, employee, or employer;
- (E) is or was an insurer, surety, or bonding entity seeking reimbursement for a payment made under a contract or bond covering the dishonest conduct;

- (F) is or was a business entity controlled
 - (1) by the attorney; or
 - (2) by someone with whom the attorney has a personal or business relationship as defined by this rule;
- (G) is or was an assignee, lienholder, or creditor of the attorney or the person who incurred the loss; or
- (H) is a government entity or agency.

Rule 3.433 adopted effective January 1, 2010.

Rule 3.434 Reimbursement limitations and exclusions

- (A) For losses occurring on or after January 1, 2009, the maximum allowable reimbursement is \$100,000, and cumulative reimbursements to an applicant may not exceed \$100,000 with respect to any individual attorney. For losses occurring before January 1, 2009, the maximum allowable reimbursement is \$50,000, and cumulative reimbursements to an applicant may not exceed \$50,000 with respect to any individual attorney.
- (B) The Fund may not reimburse
 - (1) interest or a consequential loss;
 - (2) a loss covered by any indemnity, such as insurance, fidelity guarantee, or bond, unless the indemnifier has a cause of action against the applicant for recovery of a payment made for the loss;
 - (3) attorney fees and other costs paid to recover a reimbursable loss, unless the applicant submits clear and convincing proof that the payments were reasonable and they reduced the amount otherwise reimbursable; or
 - (4) a loss from a loan or investment, unless it meets the requirements of Rule 3.436.
- (C) A reimbursable loss of non-monetary property is its fair market value at the time of loss.

Rule 3.434 adopted effective January 1, 2010.

Rule 3.435 Factors that may limit reimbursement

To fulfill the purposes of the Fund, the Commission may deny reimbursement in whole or in part for any of the following reasons:

- (A) the attorney and applicant participated or intended to participate in illegal or tortious conduct related to the subject matter of the application;
- (B) the applicant failed to act reasonably to protect against the loss, considering the circumstances of the transaction, the past dealings with the attorney, and differences in their education and business sophistication;
- (C) the nature of the applicant's loss, its amount, or the financial or administrative circumstances of the Fund require that reimbursement be limited or denied; or
- (D) the applicant is a fictitious person.

Rule 3.435 adopted effective January 1, 2010.

Rule 3.436 Attorney-client relationship required to reimburse loan or investment loss

- (A) A loss resulting from a transaction proposed by an attorney as a loan or investment with or through the attorney is not reimbursable unless
 - (1) it arose out of and in the course of the attorney-client relationship; and
 - (2) it could not have occurred but for the relationship.
- (B) To determine whether a loan or investment meets the requirements of this rule, the Commission may consider the following factors:
 - (1) whether authority to practice law in California was required for a principal part of the transaction;
 - (2) whether the attorney initiated the transaction;
 - (3) the professional and business reputation of the attorney;
 - (4) the amount charged for legal services or as a finder's fee;
 - (5) the number of prior transactions between the applicant, the attorney, or other attorneys or entities;
 - (6) the relative bargaining power, education, and business sophistication of the attorney and applicant;
 - (7) whether normal prudence of the applicant was unduly affected by the attorney-client relationship;

- (8) whether the attorney-client relationship allowed the attorney to learn about the applicant's financial affairs or prospects; and
- (9) whether the attorney failed to fully make the disclosures required by the Rules of Professional Conduct, including those regarding his or her financial condition and intended use of the applicant's money or property.

Rule 3.436 adopted effective January 1, 2010.

Article 3. Applications and action on applications

Rule 3.440 Application for reimbursement

- (A) An applicant seeking reimbursement from the Fund must submit a Client Security Fund Application for Reimbursement. The application contains the following statement: **"IMPORTANT NOTICE.** The State Bar of California has no legal responsibility for the acts of individual attorneys. Payments from the Client Security Fund are solely within the discretion of the State Bar. By applying to the Client Security Fund, the applicant acknowledges that he or she may be giving up the right to pursue a civil action for the same recovery against a third party."
- (B) The application must identify the applicant and the attorney allegedly responsible for the reimbursable loss and set forth a general statement of facts regarding the loss, including its amount, when it was incurred, when it was discovered, and the extent to which it is or has been covered by insurance, fidelity guarantee, bond, or similar indemnity.
- (C) The application requires the applicant to acknowledge that he or she has read these rules and agrees to be bound by them; to provide a current address and to promptly notify the State Bar of a change in this address; to sign a subrogation and assignment agreement; and to cooperate with the State Bar in its review of the application or in any related disciplinary proceeding or civil action the State Bar brings pursuant to the subrogation and assignment agreement.
- (D) The application must be completed in accordance with instructions and executed under penalty of perjury.
- (E) An application for reimbursement must be filed no more than four years after the loss was discovered or through reasonable diligence should have been discovered.
- (F) An applicant may apply to the Fund without exhausting other remedies.
- (G) An applicant need not be represented by a lawyer. If an applicant is represented by a lawyer, the lawyer is encouraged to provide his or her services pro bono publico to maximize the benefits available to the applicant. A lawyer may, however, represent an applicant for a reasonable attorney fee.

Rule 3.440 adopted effective January 1, 2010.

Rule 3.441 Review of applications

- (A) The Fund may investigate an application as it deems appropriate.
- (B) Upon due consideration of an application, Fund counsel may close it without prejudice, issue a Notice of Intention to Pay,⁵ or submit it to the Commission for Tentative Decision.
- (C) In considering applications for reimbursement, the Commission may require further investigation; require submission of declarations under penalty of perjury;⁶ appoint a panel to recommend a Tentative Decision; issue a Tentative Decision; conduct hearings at which it receives evidence; administer oaths and affirmations; and compel by subpoena the attendance of witnesses and the production of books, papers and documents. A party who refuses to obey a subpoena is subject to the contempt procedures of Rule ~~5.70~~¹⁸⁷ of the Rules of Procedure of the State Bar. If the Commission decides to issue a Tentative Decision, it may postpone doing so until the conclusion of any related disciplinary action or court proceeding either pending or contemplated.
- (D) The Commission may consolidate applications related to one or more respondents when no substantial rights are prejudiced.
- (E) When an application involves more than one respondent, the Commission may consider each respondent as the subject of a separate application if no substantial rights are prejudiced.
- (F) In the interest of justice and for good cause, the Commission may waive a requirement of these rules that bars reimbursement of an application otherwise qualified for reimbursement.
- (G) An application filed by a husband and wife is deemed to be two separate applications, unless the loss occurred before January 1, 2009. For such a loss, the application is deemed to be a single application.
- (H) The applicant and respondent must supply relevant evidence under oath to support allegations or objections based on fact. Proceedings on such evidence need not be conducted according to technical rules applicable to evidence and witnesses. Any relevant evidence is admissible if of the sort that responsible persons customarily rely on in the conduct of serious affairs, even if such evidence might be inadmissible in a civil action.

⁵ See Rule 3.442.

⁶ Code of Civil Procedure § 2015.5.

- (I) A decision to reimburse a loss must be based on a preponderance of the evidence.
- (J) Testimony presented to the Commission or a fact-finding panel it appoints may be recorded and transcribed in whole or in part as directed by the Commission.

Rule 3.441 adopted effective January 1, 2010.

Rule 3.442 Notice of Intention to Pay

- (A) A Notice of Intention to Pay advises an attorney of the allegations made by an applicant and an intention to reimburse the applicant in a stated amount. In compliance with standards set by the Commission, the Director may issue the notice provided an applicant has
 - (1) submitted a complete application in accordance with instructions;
 - (2) submitted documentation confirming the amount of the loss;
 - (3) provided sufficient evidence of eligibility for reimbursement as required by these rules; and
 - (4) filed a discipline complaint against the attorney, unless the Director waives this requirement.
- (B) For applications requesting \$5,000.00 or less, prima facie evidence is sufficient to establish eligibility for reimbursement under this rule.
- (C) The attorney must be served with a Notice of Intention to Pay in accordance with Rule 3.445.
- (D) The attorney has thirty days from the date of service to submit a written objection to a Notice of Intention to Pay. If the attorney objects, the Fund will conduct further review in accordance with these rules. If the attorney does not object, the Fund may pay the applicant the reimbursement amount stated in the notice.
- (E) An applicant reimbursed pursuant to a Notice of Intention to Pay may object to the amount of payment by submitting a written objection under penalty of perjury within thirty days of the date on which reimbursement issues. Acceptance of the reimbursement does not waive the right to object. An objection requires further review in accordance with these rules.
- (F) In issuing a Notice of Intention to Pay, the Director may waive Rule 3.432 (A).

Rule 3.442 adopted effective January 1, 2010.

Rule 3.443 Tentative Decisions

- (A) A Tentative Decision must be in writing, include a statement of the findings or reasons on which the decision is based, and be served in accordance with Rule 3.445.
- (B) The parties have thirty days from the date of service to provide the Fund and the other party a written objection to the Tentative Decision. The objection must state the precise legal or factual grounds for the objection and be executed under penalty of perjury. The objection may include supporting documentation; a request for an oral hearing; or in lieu of a request for an oral hearing additional declarations executed under penalty of perjury.⁷
- (C) In lieu of granting an oral hearing, the Commission may require that any facts alleged in an objection to a Tentative Decision be supported by one or more declarations under penalty of perjury.⁸
- (D) If the Fund receives no timely written objections, a Tentative Decision may be deemed a Final Decision.

Rule 3.443 adopted effective January 1, 2010.

Rule 3.444 Final Decisions

- (A) After providing the parties an opportunity to submit objections, requests, or declarations in response to a Tentative Decision; requiring any additional investigation or conducting an oral hearing it deems necessary; and considering the record relevant to the application, the Commission issues a Final Decision.
- (B) A Final Decision issued by the Commission
 - (1) must be in writing;
 - (2) may direct or deny reimbursement with or without prejudice;
 - (3) may establish any conditions for reimbursement deemed appropriate; and
 - (4) must be served in accordance with Rule 3.445.
- (C) A Final Decision of the Commission constitutes the final action of the State Bar.

Rule 3.444 adopted effective January 1, 2010.

Rule 3.445 Service of decisions and Notice of Intention to Pay

⁷ Code of Civil Procedure § 2015.5.

⁸ Code of Civil Procedure § 2015.5.

- (A) Service of a Notice of Intention to Pay must be made by first-class mail to the attorney and any lawyer representing the attorney in connection with the application.
- (B) Service of a Tentative Decision and Final Decision must be made by first-class mail to the applicant,⁹ the attorney, and any lawyer representing either party in connection with the application.
- (C) A deceased attorney need not be served with a Tentative Decision or Final Decision. If a Tentative Decision is not served because the attorney is deceased, the time for objecting to the decision may be waived in writing by the applicant. Upon receipt of the waiver, the Tentative Decision may be deemed the Final Decision.
- (D) An attorney and a lawyer representing either an attorney or an applicant must be served at the address of record.

Rule 3.445 adopted effective January 1, 2010.

Article 4. Superior court review; repayment; collection

Rule 3.450 Superior court review

The Final Decision of the Commission to grant or deny reimbursement to an applicant may be reviewed in superior court pursuant to a request for review filed by the applicant or attorney in accordance with Code of Civil Procedure section 1094.5. The request must be filed no more than ninety days after the date the decision was served.

Rule 3.450 adopted effective January 1, 2010.

Rule 3.451 Repayment of reimbursement by attorney

An attorney must repay the Fund for any reimbursement, with simple interest and an assessment of processing costs. The rate of interest, set forth in the Schedule of Charges and Deadlines, is adopted by the Board of Trustees upon the recommendation of the Commission and may not exceed the maximum legal rate. Processing costs are the estimated average processing costs for similar applications in the most recent calendar year for which data is available.¹⁰

Rule 3.451 adopted effective January 1, 2010; amended effective January 1, 2012.

Rule 3.452 Enforcement of State Bar rights

⁹ Rule 3.440(C) requires an applicant to agree to promptly notify the State Bar of a change in address.

¹⁰ See Business & Professions Code § 6140.5(d).

The Office of General Counsel of the State Bar is authorized to collect assignments made by applicants reimbursed by the Client Security Fund and to enforce the State Bar's rights as permitted by law. To effect collection of an assignment, General Counsel has discretion to disclose information about the application that would otherwise be confidential.

Rule 3.452 adopted effective January 1, 2010.

Article 5. Records

Rule 3.460 Records shared with Chief Trial Counsel

- (A) To assist with its investigation and consideration of an application, the Commission and its staff may access confidential records of the Office of Chief Trial Counsel regarding an attorney who is the subject of an application. The records remain confidential despite any such use.
- (B) The State Bar Office of Chief Trial Counsel may have access to any Commission records related to an investigation or prosecution.

Rule 3.460 adopted effective January 1, 2010.

Rule 3.461 Public access to records and proceedings

- (A) The following are confidential: applications for reimbursement from the Client Security Fund; hearings on applications; deliberations of the Commission; and any records created by staff with regard to an application or related investigation.
- (B) If disciplinary charges related to the application have been filed against the attorney, the public may have access to the application; oral hearings the Commission grants to an applicant and attorney; Tentative and Final Decisions; and briefs or pleadings filed by any party to a Commission proceeding; but not to records created by staff with regard to an application or related investigation.
- (C) In the interest of public protection, the following information regarding a reimbursement is public record: the names of the applicant and respondent; the amount and date of the reimbursement; and whether there are disciplinary charges related to the application.
- (D) Copies of public records are available for the fee set forth in the Schedule of Charges and Deadlines.

Rule 3.461 adopted effective January 1, 2010.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 4. CONSUMERS

Chapter 2. Fee Arbitration

Article 1. General Provisions

Rule 3.500 Scope

- (A) As required by statute, the Board of Trustees of the State Bar has adopted these rules for arbitration of disputes regarding attorney fees.¹
- (B) In these rules, unless otherwise indicated
- (1) “award” means the decision of the arbitrator or arbitrators in a fee arbitration hearing;
 - (2) “client” means the person who directly or through an authorized representative obtains an attorney’s legal services;
 - (3) “non-client” means a person who is not the client of an attorney but who may be liable for, or entitled to a refund of, the attorney’s fees; references to “client” also apply to “non-client”;
 - (4) “declaration” means a document that is based on personal knowledge and signed under penalty of perjury and otherwise complies with the requirements of Code of Civil Procedure section 2015.5;
 - (5) “fees” means attorney fees, costs, or both;
 - (6) “hearing” means a fee arbitration hearing conducted by the State Bar;
 - (7) “lay arbitrator” means a non-attorney who has not been admitted to practice law in any jurisdiction; who has never worked regularly for a court or a law practice of any kind as a paralegal, law clerk, or in any other capacity; or who has never attended law school;
 - (8) “presiding arbitrator” is the arbitrator to supervise the arbitrators in the State Bar Fee Arbitration program and to decide the matters indicated by these rules or the designee of the presiding arbitrator;
 - (9) “State Bar” means the Mandatory State Bar Fee Arbitration program;

¹ Business & Professions Code §§ 6010, 6200-6206.

- (10) “trial” after non-binding arbitration means either an action in the court having jurisdiction over the amount in controversy or arbitration pursuant to the parties’ pre-existing arbitration agreement.
- (C) Unless otherwise provided by rule or law, the presiding arbitrator may delegate his or her duties.

Rule 3.500 adopted effective July 1, 2013.

Rule 3.501 Right to arbitration of fee disputes

- (A) California law entitles a client to arbitration of a dispute regarding an attorney’s fees for legal services. If initiated by a client, fee arbitration is mandatory for an attorney.² Fee arbitration is voluntary for a client unless the parties have agreed in writing to submit their fee disputes to mandatory fee arbitration.³
- (B) An attorney must provide the mandatory State Bar Notice of Client’s Right to Fee Arbitration form before or at the time of
 - (1) service of summons in a lawsuit against the client for fees; or
 - (2) commencing any other proceeding against the client for fees under a contract that provides for an alternative to mandatory fee arbitration.⁴
- (C) Failure to provide the notice is grounds for dismissal of the lawsuit or other proceeding.⁵
- (D) Where the existence of an attorney-client relationship is in dispute, the parties may stipulate to submit the issue for determination by the State Bar.

Rule 3.501 adopted effective July 1, 2013.

Rule 3.502 Waiver of right to arbitration

- (A) A client’s right to request or maintain fee arbitration is waived⁶ if
 - (1) a complete State Bar Request for Arbitration has not been postmarked or received by the State Bar within thirty days of the client’s receipt of the State Bar Notice of Client’s Right to Fee Arbitration;⁷

² Business & Professions Code § 6201.

³ Business & Professions Code § 6200(c).

⁴ Business & Professions Code § 6201(a).

⁵ Business & Professions Code § 6201(a).

⁶ Business & Professions Code § 6201.

⁷ Business & Professions Code § 6201(a).

- (2) the client commences a legal action or files a pleading seeking either of the following:
 - (a) judicial resolution of a fee dispute subject to arbitration; or
 - (b) affirmative relief against an attorney for alleged malpractice or professional misconduct; or
 - (3) the client receives a State Bar Notice of Client's Right to Fee Arbitration but does either of the following before submitting a State Bar Request for Arbitration:
 - (a) answers or otherwise responds to a complaint filed in court by the attorney; or
 - (b) files a response in another proceeding regarding fees initiated by the attorney.
- (B) If the fee dispute is transferred to a different fee arbitration program after the Request for Arbitration is filed, the date that determines whether the request was made by the thirty-day deadline is one of the following:
- (1) the date of the postmark of the Request for Arbitration;
 - (2) the date the request was received by the State Bar; or
 - (3) the date ordered by the presiding arbitrator.

Rule 3.502 adopted effective July 1, 2013.

Rule 3.503 Exclusions

These rules do not apply to⁸

- (A) claims for fees that are determinable by statute or court order;
- (B) claims made by a party requesting arbitration who is not liable for the fees or entitled to a refund;
- (C) claims for damages or other affirmative relief based on alleged malpractice or professional misconduct;

⁸ Business & Professions Code § 6200(b).

- (D) claims for fees where services were not rendered in California in any material part by an attorney who maintains no office in California, whether the attorney is admitted in California or only in another jurisdiction;⁹
- (E) claims for fees where the client has assigned the claim; or
- (F) claims between attorneys for division of fees.

Rule 3.503 adopted effective July 1, 2013.

Rule 3. 504 Representation

A party to arbitration may be represented by an attorney at his or her expense.

Rule 3.504 adopted effective July 1, 2013.

Rule 3.505 Original jurisdiction

- (A) Fee arbitration is conducted by a bar association in the county where the legal services giving rise to the fees in dispute were substantially performed or in the county where at least one attorney involved in the dispute had an office at the time the services were rendered.
- (B) Fee arbitration may be initiated and conducted by the State Bar if
 - (1) no local bar association program has jurisdiction;
 - (2) a party submits a State Bar Request for Arbitration that explains in a declaration why the party cannot obtain a fair hearing before the local bar association; or
 - (3) the local bar association that would normally arbitrate the matter demonstrates to the satisfaction of the State Bar that it has no jurisdiction or is otherwise unable to arbitrate the matter.
- (C) The State Bar will waive original jurisdiction if a local bar association is willing to accept it and the parties consent in writing to jurisdiction of the local bar association.

Rule 3.505 adopted effective July 1, 2013.

Rule 3.506 Removal jurisdiction

- (A) Arbitration within the jurisdiction of a local program may be removed to the State Bar when a party seeking removal establishes in a declaration under penalty of

⁹ Business & Professions Code § 6200(b)(1).

perjury a factual basis for removal and the presiding arbitrator determines there is good cause for the State Bar to arbitrate the dispute.

- (B) The State Bar serves notice of a request for State Bar jurisdiction on any other party identified in the request and on the local bar association that has jurisdiction. A written reply to the notice may be submitted to the State Bar. The reply must be received at the State Bar within fifteen days of service of the request.
- (C) The presiding arbitrator must deny a request for removal of a fee dispute within the jurisdiction of a local program if
 - (1) another party or the local program would be prejudiced by removal and such prejudice outweighs an allegation of inability to obtain a fair hearing;
 - (2) during the local arbitration proceedings the party requesting removal has acted in a manner inconsistent with the allegation of inability to obtain a fair hearing; or
 - (3) the party requesting removal has waived any claim of inability to obtain a fair hearing.
- (D) A party requesting removal of jurisdiction must provide any additional information the State Bar requires by the deadline it specifies.
- (E) The presiding arbitrator's decision regarding a request for removal is final.

Rule 3.506 adopted effective July 1, 2013.

Rule 3.507 Venue

- (A) State Bar arbitration of a fee dispute is heard in the county where the legal services giving rise to the fees in dispute were substantially performed or in the county where at least one attorney involved in the dispute had an office at the time the services were rendered. For good cause, a request for change of venue from the county of original jurisdiction¹⁰ may be submitted by
 - (1) a client no later than fifteen days after filing a Request for State Bar Arbitration; or
 - (2) an attorney no later than fifteen days after being served with a copy of a Request for Arbitration.
- (B) A party requesting a change of venue must provide any additional information the State Bar requires by the deadline it specifies.

¹⁰ Rule 3.505(A).

- (C) The presiding arbitrator may for good cause grant or deny the request. The decision is final.

Rule 3.507 adopted effective July 1, 2013.

Rule 3.508 Non-binding and binding arbitration

- (A) Fee arbitration is non-binding unless every party agrees in writing to binding arbitration. The written agreement must be made after the dispute arises and before the taking of evidence at the arbitration hearing.¹¹
- (B) A non-binding fee arbitration award becomes final and binding unless within thirty days of service of the award a party requests a trial.¹²
- (C) A party who initiates a request for binding arbitration may submit a written election for non-binding arbitration instead if the respondent
 - (1) has not replied;
 - (2) has not agreed to binding arbitration in the reply; or
 - (3) has replied and agreed to binding arbitration, but sought to materially increase the amount in dispute, provided the election is sent to the State Bar within ten days of receipt of the reply.
- (D) Parties who have agreed in writing to binding arbitration may change their election to non-binding arbitration, provided they all agree in writing before the taking of evidence.

Rule 3.508 adopted effective July 1, 2013.

Rule 3.509 Consolidation

- (A) A party may request consolidation of two or more arbitration matters for hearing. The request must be in writing. The State Bar will serve a copy of the request on the other parties. A written reply to the request must be submitted to the State Bar within fifteen days of service. The decision of the presiding arbitrator regarding a request for consolidation is final.
- (B) If an attorney is in arbitration with a non-client and the client then files a Request for Arbitration of the same dispute, the client is automatically joined to the arbitration and the matters are consolidated absent a showing of good cause.

¹¹ Business & Professions Code § 6204(a).

¹² Business & Professions Code § 6203(b).

- (C) Consolidation does not entitle a party to a refund or reduction of filing fees.

Rule 3.509 adopted effective July 1, 2013.

Rule 3.510 Withdrawal; dismissal

- (A) A client who has requested arbitration may withdraw from arbitration
- (1) with the written consent of all parties if they have contractually agreed in writing to State Bar arbitration;
 - (2) with the written consent of all parties if the arbitration is binding and the matter has not been settled; or
 - (3) in all other cases, without the consent of other parties if withdrawal occurs before the taking of evidence.
- (B) Arbitration requested by an attorney may be dismissed only upon written agreement of each party.
- (C) The State Bar or sole arbitrator or panel chair appointed by the State Bar must dismiss arbitration without prejudice when the parties confirm that the dispute has been settled.

Rule 3.510 adopted effective July 1, 2013.

Rule 3.511 Stay of proceeding¹³

- (A) If an attorney or an attorney's assignee initiates a legal proceeding in a court or other forum to collect fees that are otherwise subject to arbitration, the proceeding is automatically stayed by filing a State Bar Request for Arbitration. The court or other forum must immediately be notified of the request, on an appropriate form if applicable, and be provided with a copy of the request by
- (1) the party requesting arbitration; or
 - (2) the plaintiff in a legal proceeding in which the party requesting arbitration has not appeared or is not subject to jurisdiction of the court or other forum.¹⁴
- (B) Upon request, the State Bar may file the Judicial Council Notice of Stay of Proceedings form or provide a copy of the form to a party so that party may complete and file the form.

¹³ Business and Professions Code § 6201(b)-(d).

¹⁴ Rule of Court 3.650.

Rule 3.511 adopted effective July 1, 2013.

Rule 3.512 Confidentiality

- (A) A request for arbitration, a reply, a State Bar file, an exhibit, an award, and any other record of an arbitration proceeding are confidential and may not be disclosed by the State Bar unless disclosure is required by court order.
- (B) The award is confidential except in a judicial challenge to, confirmation of, or enforcement of an award.
- (C) Referral of an attorney for possible disciplinary investigation because of conduct disclosed in an arbitration proceeding does not violate the confidentiality required by these rules.¹⁵
- (D) Arbitration between an attorney and non-client does not abrogate an attorney's responsibility to exercise independent professional judgment on behalf of a client or to protect the client's confidential information,¹⁶ unless the law requires it or the client consents to allow the disclosure of confidential information for the purposes of the proceeding.
- (E) A party's statement of financial status is confidential and is not provided to an opposing party.

Rule 3.512 adopted effective July 1, 2013.

Rule 3.513 Service; receipt; dates

- (A) Unless these rules provide otherwise, service is by personal delivery or by mail pursuant to Code of Civil Procedure section 1013(a). If a party is represented by counsel, service is required only upon that party's counsel, except for service of an award, which is served on the party as well as on counsel.
- (B) Service by mail is complete at the time of deposit in the United States mail or in a business facility used to collect and process correspondence for mailing with the United States Postal Service. The time for performing any act commences on the date service is complete and shall not be extended by reason of service by mail.
- (C) A client who is a party to an arbitration is served at the latest address provided to the State Bar. If a client fails to advise the State Bar of his or her current address, the State Bar may close a client request for arbitration or enforcement thirty days after learning that the address is not current.

¹⁵ Rule 3.546.

¹⁶ Business & Professions Code § 6068(e); Rule of Professional Conduct ~~1.63-100~~.

- (D) An attorney who is a party to an arbitration or who represents a party in an arbitration is served at the attorney's address of record with the State Bar.¹⁷
- (E) A filing or other communication submitted to the State Bar electronically or by facsimile is deemed to be received on the date of receipt of the transmission only when the State Bar receives the original within five days of the electronic or facsimile submission.

Rule 3.513 adopted effective July 1, 2013.

Rule 3.514 Effect of time requirements

The failure of the State Bar or a sole arbitrator or panel appointed by the State Bar to comply with a time requirement of these rules does not by itself deprive the State Bar of jurisdiction, warrant dismissal of an arbitration, or provide grounds for invalidation or modification of an award.

Rule 3.514 adopted effective July 1, 2013.

Article 2. State Bar Fee Arbitration Proceedings and Award

Rule 3.530 Request for Arbitration

- (A) When the State Bar has jurisdiction or accepts it in accordance with these rules, a Request for Arbitration may be filed by
 - (1) a client; or
 - (2) an attorney claiming entitlement to fees from a client or a non-client.
- (B) If an attorney requests arbitration, the arbitration may proceed only if the client consents in writing on the approved form within thirty days of service of the request. Client consent is not required if the client has previously consented in writing to mandatory fee arbitration, or the request is for removal of arbitration initiated by the client.¹⁸
- (C) A client is entitled to appointment of an attorney arbitrator whose area of practice is civil law if the fee dispute relates to civil law, or criminal law if the dispute relates to criminal law.¹⁹ A client must make the election in the Request for Arbitration or a reply to a request.

¹⁷ Rule 2.3.

¹⁸ Rule 3.506.

¹⁹ Business & Professions Code § 6200(e).

- (D) The State Bar must serve a notice of a Request for Arbitration and any supporting documentation on
- (1) any attorney identified in the Request for Arbitration as a respondent, together with the Notice of Attorney Responsibility;
 - (2) a client if a request submitted by a non-client has not been signed by the client; and
 - (3) a client if an attorney has requested fee arbitration and the client has consented.
- (E) A client's Request for Arbitration must be postmarked or received no later than thirty days from the date the client received the Notice of Client's Right to Fee Arbitration.
- (F) A Request for Arbitration may be amended up to fifteen days after its receipt by the State Bar. The State Bar may subsequently request clarification that requires amendment of the request. Later amendment by a party may be made only with the permission of the presiding arbitrator, or the sole arbitrator or panel chair if assigned. If an amendment increases the amount in dispute, the State Bar may request a corresponding increase in the filing fee from the requesting party.

Rule 3.530 adopted effective July 1, 2013.

Rule 3.531 Reply to Request for Arbitration

A respondent party may submit a reply to a Request for Arbitration to the State Bar within thirty days of service of the request.

Rule 3.531 adopted effective July 1, 2013.

Rule 3.532 Disputes below threshold minimum

If the amount in dispute is less than the minimum amount set forth in the Schedule of Charges and Deadlines, the party requesting arbitration and any party replying to the request must each submit a complete written statement, with all supporting documents, of the reasons for the dispute. The presiding arbitrator may then require any party to submit additional information within thirty days of receipt of the reply or the deadline for its receipt. The parties are not entitled to a hearing.

Rule 3.532 adopted effective July 1, 2013.

Rule 3.533 Denial of Request for Arbitration; reconsideration

If the State Bar believes that a Request for Arbitration is time barred or does not otherwise meet statutory requirements,²⁰ it must notify the parties and provide them an opportunity to submit additional written evidence in support of State Bar jurisdiction, or provide the initiating party an opportunity to submit new evidence in a written request for reconsideration. A request for reconsideration must be submitted within fifteen days of service of the notice. The request is decided by the presiding arbitrator, whose decision is final.

Rule 3.533 adopted effective July 1, 2013.

Rule 3.534 Fees; refund

- (A) The party requesting arbitration must submit the filing fee set forth in the Schedule of Charges and Deadlines with the Request for Arbitration or when the State Bar accepts removal of jurisdiction in accordance with these rules.²¹
- (B) Joining a party does not increase the filing fee.
- (C) If arbitration is settled or dismissed before the Request for Arbitration is served, the entire filing fee is refunded. If the arbitration is settled or dismissed after the request has been served, the State Bar retains some or all of the fee as set forth in the Schedule of Charges and Deadlines.
- (D) An award may include an allocation of all or part of a filing fee among the parties.
- (E) The filing fee is the only administrative fee that may be charged for arbitration. The hearing room must be provided without charge.
- (F) Each party is responsible for its own costs, such as those for interpreters and expert witnesses.

Rule 3.534 adopted effective July 1, 2013.

Rule 3.535 Waiver of filing fee

- (A) A Request for Waiver of Arbitration Filing Fee may be submitted by the party requesting arbitration. The State Bar may require that the request submitted by a party be supported by a statement of financial status.
- (B) A Request for Waiver of Arbitration Filing Fee may be granted, in whole or in part, or denied for good cause. The decision is final.

Rule 3.535 adopted effective July 1, 2013.

²⁰ Business & Professions Code §§ 6200-6206.

²¹ Rule 3.506.

Rule 3.536 Arbitrators

- (A) Except for disputes below a threshold minimum,²² arbitration must be conducted by a sole attorney arbitrator or by a panel of three arbitrators appointed by the State Bar. A panel of three arbitrators must be chaired by an attorney arbitrator and include a lay arbitrator. A retired judge serving as an arbitrator must be an active ~~member~~licensee of the State Bar.
- (B) Whether the State Bar assigns a sole arbitrator or a panel of three arbitrators is determined by the amount in dispute that is set forth in the Schedule of Charges and Deadlines. If a three-member panel is assigned, the parties may stipulate to proceed with a sole attorney arbitrator conducting the arbitration. If the amount in dispute is less than the threshold minimum amount set forth in the schedule, the presiding arbitrator decides the arbitration in accordance with these rules.²³
- (C) An attorney arbitrator must be a civil or criminal practitioner if a client has elected such an appointment in the request and the dispute involves the same area of law.²⁴
- (D) A Notice of Appointment of Arbitrator must be served
 - (1) within sixty days of receipt of a reply to the Request for Arbitration;
 - (2) within sixty days of the passage of the reply deadline if no reply was received; or
 - (3) in either case as soon as reasonably possible after the receipt of the reply or the reply deadline.
- (E) No compensation will be paid to arbitrators for services other than for formal hearings extending beyond four hours. Compensation is hourly at the rate set forth in the Schedule of Charges and Deadlines and is paid equally by the parties. Any dispute regarding compensation is decided by the presiding arbitrator, whose decision is final.

Rule 3.536 adopted effective July 1, 2013.

Rule 3.537 Disqualification or discharge of arbitrators

- (A) A party may disqualify one arbitrator without cause. A party is entitled to unlimited challenges of an arbitrator for cause. The State Bar must be notified of the disqualification within fifteen days of serving the Notice of Arbitrator Assignment.

²² Rule 3.532.

²³ Rule 3.532.

²⁴ Rule 3.530(C).

- (B) An arbitrator who believes he or she cannot render a fair and impartial decision or who believes there is an appearance that he or she cannot render a fair and impartial decision must disqualify himself or herself or accede to a party's challenge for cause. If the arbitrator believes there are insufficient grounds to accede to a challenge for cause, the presiding arbitrator decides the challenge. The decision is final.
- (C) The presiding arbitrator, assistant presiding arbitrator, or a member of the Committee on Mandatory Fee Arbitration may not represent a party in a State Bar fee arbitration.
- (D) An arbitrator vacancy due to disqualification or inability to serve must be filled by the State Bar. If a panel member fails to appear at a hearing, the parties may stipulate in writing that the hearing may proceed with a single attorney arbitrator. In no event may arbitration proceed with only two arbitrators or a single non-attorney arbitrator.
- (E) The presiding arbitrator may discharge an arbitrator or panel of arbitrators for unreasonable delay or for other good cause.

Rule 3.537 adopted effective July 1, 2013.

Rule 3.538 Contact with arbitrator

A party or a person acting on a party's behalf may communicate with an arbitrator only

- (A) in writing with a copy submitted to the State Bar and all other parties or their counsel;
- (B) to schedule a hearing;
- (C) at a hearing; or
- (D) in an emergency.

Rule 3.538 adopted effective July 1, 2013.

Rule 3.539 Scheduling hearing

- (A) After service of the Notice of Assignment, the hearing will be scheduled
 - (1) within forty-five days if a sole arbitrator has been assigned; or
 - (2) within ninety days if a panel has been assigned.

- (B) Within fifteen days of assignment and at least fifteen days before the hearing, the sole arbitrator or panel chair will serve a Notice of Hearing on each party and the State Bar. Appearance at the hearing waives any claim of defective service of the notice.
- (C) The date of a scheduled hearing will be extended by fifteen days from the date a new arbitrator is assigned to replace an arbitrator who has been removed because of disqualification or challenge.²⁵
- (D) Upon stipulation or application to the assigned sole arbitrator or panel chair, the sole arbitrator or panel chair may continue a matter for good cause shown. A continuance of more than thirty days must be approved by the presiding arbitrator.

Rule 3.539 adopted effective July 1, 2013.

Rule 3.540 Preparation for hearing

- (A) Discovery is not permitted except as provided by this rule.
- (B) Nothing in these rules deprives a client of the right to inspect and obtain the client's file kept by the attorney. This provision does not apply to a non-client.
- (C) Before a hearing the parties
 - (1) are encouraged to agree to issues not in dispute and to voluntarily exchange documents;
 - (2) may be required by the sole arbitrator or panel chair to clarify issues, submit additional documentation, or exchange documents, and the sole arbitrator or panel may decline to admit into evidence any document a party was required to exchange but did not; and
 - (3) may request issuance of a subpoena in accordance with these rules.
- (D) A party seeking to have a subpoena issued must submit to the State Bar a completed but unsigned subpoena form approved by the State Bar, with proof of service on all parties. Upon a showing of good cause, the presiding arbitrator, or panel chair if appointed, may issue a signed subpoena. The requesting party is responsible for service of the subpoena and any witness fees.
- (E) At least ten days before the hearing a party may submit a written request that the sole arbitrator or panel chair permit the party to

²⁵ Rule 3.536.

- (1) waive personal appearance and submit testimony and exhibits by declaration under penalty of perjury;
 - (2) appear by telephone; or
 - (3) designate an attorney or non-attorney representative because of inability to attend the hearing.
- (F) The personal representative of a deceased party or the guardian or conservator of an incompetent party may represent the party.

Rule 3.540 adopted effective July 1, 2013.

Rule 3.541 Hearing

- (A) Any relevant evidence is admissible at a hearing if it is of the sort responsible persons customarily rely on in the conduct of serious affairs, regardless of any common law or statutory rule to the contrary.
- (B) Evidence relating to claims of malpractice or professional misconduct is admissible only to the extent it affects the fees to which the attorney is entitled.
- (C) Testimony may be given under oath or affirmation administered by the assigned sole arbitrator or panel chair.
- (D) The order of proof is determined by the sole arbitrator or panel chair.
- (E) Upon a party's request, the sole arbitrator or panel chair may permit
 - (1) a client to be accompanied by another person;
 - (2) a client to be assisted by an interpreter at the client's expense;
 - (3) the attendance of other persons; and
 - (4) the attendance of witnesses during the hearing, absent the objection of a party.
- (F) A hearing is closed to the public; recording of any kind is prohibited; and any participant or attendee is bound by the confidentiality requirements of these rules.²⁶

Rule 3.541 adopted effective July 1, 2013.

Rule 3.542 Arbitration without a hearing

²⁶ Rule 3.512.

The parties may stipulate that the sole arbitrator or panel decide all matters without a hearing and base the decision on the request, the reply, and any other written material submitted by a party, which must be filed with the sole arbitrator or the panel and served on all other parties by the date ordered.

Rule 3.542 adopted effective July 1, 2013.

Rule 3.543 Failure to respond or participate

- (A) If a party required to participate in arbitration fails to do so, the arbitration may proceed as scheduled and an award will be made based on the evidence presented. The award may include findings regarding the willfulness of a party's failure to appear at the hearing.
- (B) A party who willfully fails to appear at a hearing is not entitled to request a trial after non-binding arbitration. That party has the burden of proving the non-appearance was not willful. The determination of willfulness is made by the court.²⁷

Rule 3.543 adopted effective July 1, 2013.

Rule 3.544 Award form and content; approval

- (A) Following the hearing, the original of the signed award will be submitted to the State Bar by
 - (1) a sole arbitrator within fifteen days; or
 - (2) a panel chair within twenty-five days.
- (B) The award must be in writing on the State Bar Arbitration Award form and
 - (1) be signed by the sole arbitrator or at least two concurring panel members and include a dissent, if any, signed by the dissenting panel member;
 - (2) determine all questions submitted to the panel that are necessary to resolve the controversy;
 - (3) indicate whether it is binding or non-binding; and
 - (4) identify all responsible attorneys.
- (C) The award may

²⁷ Business & Professions Code § 6204(a).

- (1) include relevant findings of fact;
 - (2) state the circumstances regarding the willfulness of any party's non-appearance;
 - (3) be a stipulated award that incorporates by reference a written settlement agreement reached by the parties before or after assignment of a sole arbitrator or panel;
 - (4) include a refund of unearned fees paid to an attorney; and
 - (5) allocate the filing fee.
- (D) The award may not
- (1) include any other fees, such as attorney fees for the arbitration, notwithstanding an agreement between the parties; or
 - (2) include damages, offset, or any other affirmative relief for malpractice or professional misconduct.
- (E) An award may be made in favor of a party who fails to appear at a hearing if the evidence so warrants, but may not be made against the absent party solely because of the absence. If only one party appears at the hearing, an award may be made; the party who is present must submit any evidence the sole arbitrator or panel chair requires to support the award. If no party appears or waiver of personal appearance has not been approved, the sole arbitrator or panel may issue an award based on the evidence submitted.
- (F) An award is not final until the State Bar approves it for procedural compliance. The State Bar serves each party with an approved award and the Notice of Rights After Arbitration.
- (G) When an award is issued in a binding arbitration, there can be no trial on the issue of fees, but for reasons set forth in statute²⁸ a trial court may correct,²⁹ vacate,³⁰ or confirm³¹ a binding award.

Rule 3.544 adopted effective July 1, 2013.

Rule 3.545 Correction or amendment of award

²⁸ Code of Civil Procedure §§ 1285-1287.6.

²⁹ Code of Civil Procedure § 1286.8.

³⁰ Code of Civil Procedure § 1286.2.

³¹ Code of Civil Procedure § 1286.

- (A) An award may be corrected or amended by the sole arbitrator or at least two concurring members of a panel. Correction is permitted only for an evident mistake in calculation or a description of a person, thing, or property, or for a defect of form not affecting the merits of the dispute.³² Amendment is permitted when an award is inadvertently incomplete and amendment does not substantially prejudice the legitimate interests of a party. Unless requested by the arbitrator, no additional testimony or documentary evidence may be submitted.
- (1) Any party may submit a written request that the State Bar correct an award. The requesting party must submit the request to the State Bar with proof of service and serve a copy on each party within ten days after service of the award. The State Bar must serve a copy of the request on each party. Any correction will be made by the sole arbitrator or panel chair within thirty days of service of the award.
- (2) A written request to correct an award does not extend the thirty-day deadline to request a trial or arbitration after a non-binding award has been issued.
- (3) Any party may submit a written request that the State Bar amend an award. The requesting party must submit the request with proof of service and serve a copy on any other party at any time prior to judicial confirmation of the award.
- (B) Any party may submit to the State Bar a written objection to a request for correction or amendment.
- (C) The State Bar must serve all parties with a corrected or amended award or denial of a request for correction or amendment.

Rule 3.545 adopted effective July 1, 2013.

Rule 3.546 Referral to Office of Chief Trial Counsel

The State Bar or a sole arbitrator or panel appointed by the State Bar may refer an attorney to the State Bar Office of Chief Trial Counsel for possible disciplinary investigation because of conduct disclosed in an arbitration proceeding. Such a disclosure does not violate the confidentiality that otherwise applies to the proceeding.

Rule 3.546 adopted effective July 1, 2013.

Article 3. Enforcement

Rule 3.560 Enforcement authority

³² Code of Civil Procedure § 1286.6.

Upon request, the State Bar may assist in enforcing a final and binding arbitration award, judgment, stipulated award, or mediation settlement requiring the attorney to refund fees previously paid to the attorney if the attorney has not timely complied with the terms of the final and binding arbitration award, judgment, stipulated award, or mediation settlement.

Rule 3.560 adopted effective July 1, 2013.

Rule 3.561 Request for State Bar Enforcement

- (A) A client may submit a written request for enforcement no earlier than 100 days and no later than four years from the date of service of a final and binding arbitration award, judgment, stipulated award, or mediation settlement.³³ The request must be in writing on the State Bar Request for Enforcement form.³⁴ The request may include any other party who was awarded or who is liable for a refund of attorney fees. An arbitration award is not enforceable by the State Bar if it refunds the client only some or all of the arbitration filing fee and does not include a refund of attorney's fees or costs.
- (B) Before submitting a Request for State Bar Enforcement, a client must make a reasonable effort to obtain payment, including at a minimum a written request to the attorney for payment. The State Bar may require proof of such an effort before accepting the request.
- (C) The State Bar must serve the Request for State Bar Enforcement on the attorney.
- (D) If a client has filed a petition in a civil court to confirm the arbitration award, the State Bar may proceed with enforcement proceedings or, with approval of the client, abate enforcement until the court enters a judgment confirming the award.

Rule 3.561 adopted effective July 1, 2013.

Rule 3.562 Attorney response to Request for State Bar Enforcement

- (A) Within thirty days of service of a Request for State Bar Enforcement, an attorney must³⁵
 - (1) provide the State Bar satisfactory proof of compliance;
 - (2) agree to a payment plan accepted by the State Bar or the client; or

³³ Business & Professions Code § 6203(d)(5).

³⁴ Rule 1.24.

³⁵ Business & Professions Code § 6203(d)(2).

- (3) establish inability to pay or lack of personal responsibility for payment in accordance with statutory requirements³⁶ and the provisions of this rule.
- (B) To establish inability to pay, an attorney must support a response to a Request for Enforcement with an Attorney's Statement of Financial Status. Any party may challenge the response, and the presiding arbitrator may then hold a hearing or require the parties to submit additional information.
- (C) To establish lack of personal responsibility for payment because of changed circumstances subsequent to arbitration, an attorney must state reasons for this belief in the response to the client request for State Bar enforcement. The response may name another attorney or other attorneys as responsible for payment. The State Bar must serve each attorney named in the response with the Request for Enforcement and a copy of the attorney's response. Any counter-response must be submitted within twenty days of service.
- (D) After considering the request, the response, and supporting documentation, the presiding arbitrator must issue a final order. The final order may
 - (1) require compliance;
 - (2) terminate or abate enforcement because the attorney is unable to comply; or
 - (3) find that another attorney is responsible for payment.

Rule 3.562 adopted effective July 1, 2013.

Rule 3.563 Payment plans

- (A) If the attorney proposes to comply with the arbitration award, judgment, or agreement by a payment plan, the State Bar promptly sends the proposed plan to the client.
- (B) The client may accept or reject a proposed payment plan. If the plan is rejected, the attorney must file a confidential Attorney's Statement of Financial Status with the State Bar so that the presiding arbitrator may
 - (1) determine that the plan is reasonable and approve it;
 - (2) reject the plan; or
 - (3) specify amendments that would make the plan acceptable.

³⁶ Business & Professions Code § 6203(d)(2).

- (C) The State Bar monitors an approved payment plan for compliance. If the client informs the State Bar that the attorney has failed to comply with the plan, the presiding arbitrator must request that the State Bar Court place the attorney on involuntary inactive status,³⁷ unless the attorney provides proof that he or she
- (1) is unable to pay;
 - (2) has fully refunded the fees; or
 - (3) has received approval of a revised payment plan from the client or the State Bar.

Rule 3.563 adopted effective July 1, 2013.

Rule 3.564 Administrative penalties; rescission or modification of penalties

- (A) Prior to the filing a motion in State Bar Court to enroll an attorney as involuntarily inactive the presiding arbitrator may impose administrative penalties³⁸ on an attorney who fails to
- (1) comply with a final and binding arbitration award, judgment, stipulated award, or mediation settlement that includes a refund of fees paid to the attorney;
 - (2) submit a written response to a Client Request for Enforcement of an Arbitration Award; or
 - (3) cooperate with the State Bar after an initial response to a Request for Enforcement.
- (B) An order for administrative penalties may not exceed twenty percent of the amount awarded or \$1,000, whichever is greater. Such an order is final. Unpaid penalties are added to the annual ~~membership~~-license fees for the next calendar year.³⁹
- (C) In response to the attorney's written request, the presiding arbitrator may modify or rescind an order for administrative penalties if all of the following conditions are met:
- (1) the attorney agrees to comply with the award;
 - (2) the attorney was not served the order for administrative penalties; and

³⁷ Rule 3.565.

³⁸ See also Rule 3.565.

³⁹ Business & Professions Code § 6203(d)(3).

- (3) the attorney satisfactorily establishes in a declaration under penalty of perjury that he or she promptly submitted a request that warranted modification or rescission of the penalties.
- (D) Before deciding an attorney's request to modify or rescind an order for administrative penalties, the presiding arbitrator may require the attorney to submit additional information or declarations under penalty of perjury within a specified time. Failure to comply is grounds for dismissal of the request.
- (E) The presiding arbitrator may rescind or modify an order imposing administrative penalties, but not if a request was made more than thirty days after service of the order because the attorney failed to maintain a current ~~membership~~ address with the State Bar.
- (F) The presiding arbitrator's decision to rescind or modify an order imposing penalties is final.

Rule 3.564 adopted effective July 1, 2013.

Rule 3.565 Inactive enrollment for noncompliance

The presiding arbitrator may move the State Bar Court to enroll an attorney involuntarily inactive⁴⁰ for failure to

- (A) refund client fees as required by a final and binding arbitration award, judgment, stipulated award, or mediation settlement;
- (B) agree to or comply with a payment plan;
- (C) prove an inability to comply with the terms of a final and binding arbitration award, judgment, stipulated award, or mediation settlement; or
- (D) prove lack of personal responsibility for compliance with the terms of a final and binding arbitration award, judgment, stipulated award, or mediation settlement.

Rule 3.565 adopted effective July 1, 2013.

Rule 3.566 Termination of enforcement

State Bar enforcement concludes upon submission of satisfactory proof of compliance with the arbitration award, judgment, stipulated award, or mediation settlement. The State Bar will notify the parties that its enforcement efforts have ended.

Rule 3.566 adopted effective July 1, 2013.

⁴⁰ Business & Professions Code §§ 6203(d)(1), 6006, and 6125 et seq.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007
Amended effective March 10, 2017

DIVISION 5. PROVIDERS OF PROGRAMS AND SERVICES

Chapter 1. Providers of Continuing Legal Education

Article 1. Global provisions

Rule 3.600 Definitions

- (A) An “MCLE activity” is minimum continuing legal education that the State Bar approves as meeting standards for MCLE credit.
- (B) A “provider” is an individual or entity approved by the State Bar to grant MCLE credit for an MCLE activity.
- (C) A “Single Activity Provider” is approved to grant credit for a single MCLE activity after submitting an application for approval of the activity in accordance with State Bar procedures and paying the appropriate processing fee.
- (D) A “Multiple Activity Provider” is approved to grant credit for any MCLE activity that complies with the terms of the Multiple Activity Provider Agreement.¹
- (E) “MCLE credit” is the number of credit hours that a ~~member~~licensee may claim to meet the requirements of these rules.
- (F) A “credit hour” is sixty minutes actually spent in an MCLE activity, less any time for breaks or other activities that lack educational content. A credit hour is reported to the nearest quarter hour in decimals. MCLE credit includes time for introductory and concluding remarks and for questions and answers.
- (G) An “approved jurisdiction” is recognized by the State Bar as having MCLE requirements that substantially meet State Bar standards for MCLE activities and computing MCLE credit hours in a manner acceptable to the State Bar. Approved jurisdictions are listed on the State Bar Web site.
- (H) A “participatory activity” is an MCLE activity for which the provider must verify attendance. Participatory activities may be presented in person or delivered by electronic means.

¹ Business & Professions Code § 6070 (b) provides that programs offered by the California District Attorneys Association and the California Public Defenders Association are deemed to be approved MCLE.

- (I) A “self-study activity” is any MCLE activity identified in Rule 2.83. Self-study activities may be presented in person or delivered by electronic means.
- (J) “State Bar MCLE Activity Auditors” are individuals designated by the State Bar to conduct audits of MCLE activities on behalf of the State Bar for the purpose of evaluating compliance by providers with these rules.

Rule 3.600 adopted as Rule 3.500 effective January 1, 2008; renumbered as Rule 3.600 effective November 4, 2011; amended effective July 1, 2014.

Rule 3.601 MCLE Activities

To be approved for MCLE credit, an MCLE activity must meet State Bar standards.

- (A) The MCLE activity must relate to legal subjects directly relevant to ~~members~~licensees of the State Bar or have significant current professional and practical content.
- (B) The presenter of the MCLE activity must have significant professional or academic experience related to its content.
- (C) Promotional material must state that the MCLE activity is approved for MCLE credit or that a request for approval is pending; specify the amount of credit offered; and indicate whether any of the credit may be claimed for required MCLE in legal ethics, elimination of bias, or competence issues.²
- (D) If the activity lasts one hour or more, the provider must make substantive written materials relevant to the MCLE activity available either before or during the activity. Any materials provided online must remain online for at least thirty calendar days following the MCLE activity.
- (E) Programs and classes must be scheduled so that participants are free of interruptions.

Rule 3.601 adopted as Rule 3.501 effective January 1, 2008; renumbered as Rule 3.601 effective November 4, 2011; amended effective January 1, 2013; amended effective July 1, 2014.

Rule 3.602 Responsibilities of every provider

Every provider must

² Business & Professions Code § 6070 (b) provides that programs offered by the California District Attorneys Association and the California Public Defenders Association are deemed to be approved MCLE. State Bar Rule 2.84 provides that “A ~~member~~licensee may claim MCLE credit for educational activities that the California Board of Legal Specialization approves for certification or recertification.” See State Bar Rule 2.72 for a description of competence issues and elimination of bias.

- (A) comply with any State Bar rules and terms applicable to an approved MCLE activity;
- (B) retain the Record of Attendance for an MCLE activity for four years from the date of the activity and submit it to the State Bar upon request. The record must include the title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, or competence issues as a component of the topic of the activity, and whether the activity is participatory or self-study;
- (C) furnish an MCLE Certificate of Attendance to each attendee who has met the requirements for the MCLE activity. The certificate must include the provider name, title of the MCLE activity, date, total hours awarded, any credits awarded for legal ethics, elimination of bias, or competence issues as a component of the topic of the activity, and whether the activity is participatory or self-study;
- (D) give each attendee who completes an MCLE activity a State Bar MCLE Activity Evaluation Form or its equivalent; retain the completed form for at least one year; and submit it to the State Bar upon request; and
- (E) notify the State Bar in writing of any change in the name, address, or other contact information required by the State Bar.

Rule 3.602 adopted as Rule 3.502 effective January 1, 2008; renumbered as Rule 3.602 effective November 4, 2011; amended effective July 1, 2014.

3.603 State Bar MCLE Activity Auditors

A State Bar MCLE Activity Auditor may be a State Bar staff member, Board of Trustees member, California Legal Specialization Board or Commission member, California Young Lawyers Association member or other person designated by the State Bar to conduct an audit of a particular MCLE program or class on behalf of the State Bar. A State Bar MCLE Activity Auditor may not have a business, financial or personal relationship with or oversight responsibility for the provider of the program or class being audited. A State Bar MCLE Activity Auditor may audit the particular MCLE program or class at no cost.

Rule 3.603 adopted effective July 1, 2014.

Rule 3.604 Suspension or revocation of provider approval

The State Bar may revoke a provider's approval for failure to comply with these rules or the terms of any applicable State Bar agreement only by majority vote of the board, after notice and hearing, and for good cause shown.

Rule 3.604 adopted as Rule 3.503 effective January 1, 2008; renumbered as Rule 3.603 effective November 4, 2011; renumbered as Rule 3.604 effective July 1, 2014; amended effective March 10, 2017.

Rule 3.605 Complaints about Providers

The State Bar does not intervene in disputes between a provider and an attendee or potential attendee, but complaints the State Bar receives regarding a provider are considered in assessing the provider's compliance with these rules.

Rule 3.605 adopted effective July 1, 2014

Article 2. Multiple Activity Providers

Rule 3.620 Applying for Multiple Activity Provider status

To be considered for Multiple Activity Provider status, a provider must

- (A) within a two-year period receive State Bar approval for four different MCLE activities and hold them on four different dates; and
- (B) submit an application and processing fee for Multiple Activity Provider status within that same period.

Rule 3.620 adopted as Rule 3.520 effective January 1, 2008; renumbered as Rule 3.620 effective November 4, 2011.

Rule 3.621 Renewing Multiple Activity Provider status

To be eligible for renewal of up to three years, a Multiple Activity Provider must

- (A) apply for renewal using the State Bar form for Multiple Activity Provider Renewal;
- (B) submit evidence that it has offered four different MCLE activities that meet the requirements of these rules within the two years preceding its application for renewal;
- (C) submit the completed form and any required documentation by the deadline set by the State Bar;
- (D) submit any complaints it may have received regarding compliance with these rules; and
- (E) pay the appropriate fees.

Rule 3.621 adopted as Rule 3.521 effective January 1, 2008; renumbered as Rule 3.621 effective November 4, 2011; amended effective July 1, 2014.

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 5. PROVIDERS OF PROGRAMS AND SERVICES

Chapter 2. Legal Services Trust Fund Program

Article 1. Administration of the Legal Services Trust Fund Program

Rule 3.660 Legal Services Trust Fund Commission

The Board of Trustees of the State Bar of California has established a Legal Services Trust Fund Commission ("Commission") to administer, in accordance with legal requirements and these rules ("Trust Fund Requirements"), revenue from IOLTA (Interest on Lawyers' Trust Accounts) and other funds remitted to the Legal Services Trust Fund Program of the State Bar.

Rule 3.660 adopted effective March 6, 2009; amended effective January 1, 2012.

Rule 3.661 Duties of the Legal Services Trust Fund Commission

- (A) The Commission must determine an applicant's eligibility for grants and notify each grant applicant that its application has been approved or denied. If the Commission tentatively approves an application, it issues a notice of the grant award, including the tentative allocation. If the notice requires submission of additional information, the Commission considers the application incomplete pending receipt of the information.
- (B) The Commission must monitor and evaluate a recipient's compliance with Trust Fund Requirements and grant terms. The evaluation may be based on
 - (1) application information, grant reports, and additional information reasonably necessary to determine compliance with Trust Fund Requirements;
 - (2) reasonable site visits scheduled upon adequate notice;
 - (3) an evaluation of a recipient by an impartial third party designated and funded by the Commission; or
 - (4) information from other sources, such as an evaluation provided by the Legal Services Corporation or other funding entity.
- (C) The Standards for the Provision of Civil Legal Aid adopted by the American Bar Association's House of Delegates on August 7, 2006, as limited by the general introduction to the standards, are the guidelines used by the Commission in

approving the quality control procedures and reviewing and evaluating the maintenance of quality service and professional standards of applicant and recipient programs. With due notice, the Commission may also rely on other standards that are consistent with law and generally accepted access to justice principles in the legal aid community.

- (D) The Commission may terminate a grant for noncompliance or take other action in accordance with Article 4 of this chapter.

Rule 3.661 adopted effective March 6, 2009.

Rule 3.662 Legal Services Trust Fund Commission membership and terms

The Commission consists of twenty-one voting members and three nonvoting judicial advisors. At least two members must be or have been within five years of appointment indigent persons as defined by statute.¹ No employee or independent contractor acting as a consultant to a potential recipient of Trust Fund grants may be appointed to the Commission.

- (A) The Board of Trustees appoints fourteen voting members, ten of whom must be ~~members~~licensees of the State Bar and four of whom must be public members who have never been admitted to the practice of law in any United States jurisdiction. Each member serves at the pleasure of the Board for a term of three years that begins and ends at the State Bar annual meeting. Upon completion of an initial term, the Board may reappoint a member for a second three-year term. The Board may extend an initial or second term by one or two years to allow a member to serve as chair or vice-chair.
- (B) The chair of the Judicial Council appoints seven voting members, five of whom must be ~~members~~licensees of the State Bar and two of whom must be public members, as well as three nonvoting judges, one of whom must be an appellate justice. Each member serves at the pleasure of the chair of the Judicial Council for a term of three years.

- (C) The Board of Trustees appoints voting members as chair and vice-chair.

Rule 3.662 adopted effective March 6, 2009; amended effective January 1, 2012; amended effective September 14, 2014.

Article 2. Construction of certain statutory provisions

Rule 3.670 Operation in California by qualified entities

- (A) A qualified legal services project is required by statute to be a nonprofit corporation operating exclusively in California or a program operated exclusively

¹ Business & Professions Code § 6213(d).

in California by a nonprofit law school accredited by the State Bar.² A qualified legal services project that is a California nonprofit corporation with operations outside California may be considered as meeting the statutory requirement if it otherwise meets Trust Fund Requirements and expends Trust Fund Program grant funds only in California.

- (B) A qualified support center is required by statute to be an incorporated nonprofit legal services center that provides through an office in California a significant level of legal support services to qualified legal services projects on a statewide basis.³

Rule 3.670 adopted effective March 6, 2009.

Rule 3.671 Primary purpose and function

- (A) A qualified legal services project is required by statute to have as its primary purpose and function providing legal services without charge to indigent persons.⁴ A qualified legal services project applying for Trust Fund Program funds is presumed to have such a purpose and function if 75% or more of the budget for the fiscal year for which it is seeking funds is designated to provide free legal services to indigents, and 75% or more of its expenditures for the most recent reporting year were incurred for such services. The calculation of 75% of expenditures may include a reasonable share of administrative and overhead expenses.
- (B) A qualified support center is required by statute to have as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge.⁵ A qualified support center applying for funds is presumed to have such a primary purpose and function if 75% or more of its budget for the fiscal year for which it is seeking funds is designated to provide such support services, and 75% or more of its expenditures for the most recent reporting year were incurred for such services.
- (C) A qualified legal services project or qualified support center that does not meet the 75% test may nevertheless apply, provided that the applicant can satisfactorily demonstrate that it meets the primary purpose and function requirement by other means.

Rule 3.671 adopted effective March 6, 2009.

Rule 3.672 Delivery of legal services

² Business & Professions Code § 6213(a).

³ Business & Professions Code § 6213(b).

⁴ Business & Professions Code § 6213(a)(1).

⁵ Business & Professions Code § 6213(b).

- | (A) “Legal services” include all professional services provided by a ~~member~~licensee of the State Bar and similar or complementary services of a law student or
| paralegal under the supervision and control of a ~~member~~licensee of the State Bar in accordance with law.⁶
- (B) “Legal support services” required by statute to be provided by a qualified support center include but are not limited to
 - (1) professional services to qualified legal services projects; and
 - (2) the direct provision of legal services to an indigent client of a qualified legal services project, provided the services are provided directly to the client
 - (a) as co-counsel with an attorney employed or recruited by a qualified legal services project; or
 - (b) at the request of an attorney employed or recruited by a qualified legal services project that is unable to assist the client.⁷

Rule 3.672 adopted effective March 6, 2009.

Rule 3.673 Permissible uses of funds

- (A) A qualified legal services project or qualified support center must use funds received under Business and Professions Code Section 6216 to provide legal assistance to indigent persons or qualified legal services projects as defined by statute.⁸ Reasonable administrative expenditures and overhead required to deliver such services meet the statutory requirement.
- (B) No recipient may use an allocation made under Business and Professions Code Section 6216 to provide services in a fee-generating case, except as described in Business and Professions Code Section 6213(e)(1)-(4). If a recipient determines that a case is not fee generating because it qualifies for a statutory exemption,⁹ the recipient must maintain records reflecting the facts that led to that conclusion and any action taken to confirm it. Client reimbursements of nominal costs or expenses are not considered fees. If attorney fees are generated in cases funded by Trust Fund Program grants, the fees must be used only for purposes permitted by statute.¹⁰ Recipients must maintain complete records of all such fees.

Rule 3.673 adopted effective March 6, 2009.

⁶ Business & Professions Code § 6213(a).

⁷ Business & Professions Code § 6213(b).

⁸ Business & Professions Code §§ 6216 and 6223.

⁹ Business & Professions Code § 6213(e)(1).

¹⁰ Business & Professions Code § 6223.

Article 3. Applications and distributions

Rule 3.680 Application for Trust Fund Program grants

To be considered for a Trust Fund Program grant, a qualified legal services project or qualified support center seeking a Trust Fund Program grant must submit a timely and complete application for funding in the manner prescribed by the Commission. The applicant must agree to use any grant in accordance with grant terms and legal requirements.

- (A) A qualified legal services project must meet statutory criteria.
- (B) A qualified support center must agree to offer support services in two or more of the following ways: consultation, representation, information services, and training. The board of directors of the support center must establish priorities for providing such services after consulting with legal services attorneys and other relevant stakeholders.
- (C) A support center not in existence prior to December 31, 1980 must demonstrate that it is deemed to be of special need by a majority of qualified legal services projects in accordance with Trust Fund Program procedures. Upon request, the Commission must make available to the applicant a list of all the names and addresses of qualified legal services projects.
- (D) A nonprofit corporation that believes it meets the criteria for a qualified legal services project and qualified support center may submit two applications, one as a project and one as a support center, indicating in each application whether it is to be considered the primary or secondary application. The Commission will consider the secondary application only if the primary application is not approved. No applicant may receive a grant as a qualified legal services project and as a qualified support center.
- (E) An application must include
 - (1) an audited financial statement by an independent certified public accountant for the latest completed fiscal year; if the fiscal year is not a calendar year, the application must also include an income and expense statement for the time between the closing date of the statement and December 31. A financial review in lieu of an audited financial statement may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines;
 - (2) information about the maintenance of quality service and professional standards and how the applicant maintains standards, such as internal

quality control and review procedures; experience and educational requirements of attorneys and paralegals; supervisory structure, procedures, and responsibilities; job descriptions and current salaries for all filled and unfilled professional and management positions; and fiscal controls and procedures.

- (3) a budget and budget narrative, which must be submitted within thirty days of receipt of a notice of tentative allocation, explaining how funds will be used to provide civil legal services to indigent persons, especially underserved client groups such as, the elderly, the disabled, juveniles, and non-English-speaking persons within the applicant's service area; and
- (4) information about program activities, such as substantive practice areas, extent and complexity of services, a summary of litigation, and populations served.

Rule 3.680 adopted effective March 6, 2009.

Rule 3.681 Duties of Trust Fund Program grant recipient

The recipient of a Trust Fund Program grant must

- (A) use the grant in accordance with the terms of the grant agreement and Trust Fund Requirements;
- (B) maintain complete financial records, including budgets, to account for the receipt and expenditure of all grant funds and all income earned by a grant recipient from grant-supported activities, such as income from fees for services (including attorney fee awards and reimbursed costs), training, sales and rentals of real or personal property, and interest earned on grant amounts;
- (C) maintain records for five years after completion of services to a client regarding the eligibility of the client and promptly provide such records to the Commission for inspection upon demand;
- (D) annually submit information that describes, in the manner required by the Commission, the grant recipient's maintenance of quality service and professional standards and compliance with program requirements and, as requested by the Commission,
 - (1) information for evaluative purposes about program activities in the prior grant year; and
 - (2) information to enhance the delivery system of legal services;
- (E) cooperate regarding any reasonable site visit;

- (F) submit timely quarterly financial reports and any other information reasonably required by the Commission; and
- (G) pay any noncompliance fees set forth in the Schedule of Charges and Deadlines for processing documents that are substantially noncompliant with Trust Fund Requirements or that are late without permission.

Rule 3.681 adopted effective March 6, 2009.

Rule 3.682 No abrogation of legal or professional responsibilities

Nothing in these rules may limit or impair in any way the professional responsibility of an attorney to provide a client with legal services appropriate to the client's needs. Trust Fund Program applicants and recipients and their staffs; volunteers; consultants; and clients and prospective clients are entitled to all rights and privileges under the law. Nothing in these rules may be interpreted to require a grant applicant or recipient to violate the law.¹¹

Rule 3.682 adopted effective March 6, 2009.

Article 4. Requests for review and complaint process

Rule 3.690 Receipt of document

For purposes of this article, receipt of a document mailed by staff or the Commission is deemed to be the earlier of either five days after the date of mailing or is the actual time of receipt when staff or the Commission delivers a document physically by courier or otherwise.

Rule 3.690 adopted effective March 6, 2009.

Rule 3.691 Denial or termination of funding

- (A) The Commission has the authority to deny an application for initial funding or for renewal of funding, or to terminate existing funding in accordance with law and these rules.¹² The applicant or grant recipient is entitled to written notice of the denial or termination.
- (B) The applicant or grant recipient may request reconsideration by the Commission.
 - (1) The request must be provided to the Commission in writing within thirty days of receipt of the notice of denial or termination of funding. The request may include additional information.

¹¹ Business & Professions Code § 6217(d).

¹² Business & Professions Code § 6224.

- (2) The Commission may affirm its decision, modify its decision, or schedule an informal conference to be held within ninety days of receipt of the request. The applicant or recipient is entitled to written notice of the date, time and place of the conference, and must have an opportunity to present information at the conference.
- (3) Unless all parties agree otherwise, the Commission must mail or otherwise deliver a written decision within sixty days of the conference.
- (C) Within thirty days of receipt of written notice of the Commission decision on the request for reconsideration, the applicant or grant recipient may file a request for review by the State Bar Court. The request must be submitted to the State Bar Court in accordance with the Rules of Procedure of the State Bar on Legal Services Trust Fund Proceedings. Pending a final decision by the State Bar Court, a current grant recipient must continue to receive funding.
- (D) The decision of the Commission on the request for reconsideration is final if the applicant or grant recipient fails to file a timely request for review by the State Bar Court.

Rule 3.691 adopted effective March 6, 2009.

Rule 3.692 Complaints

- (A) Any person or entity may file a formal written complaint that a grant recipient fails to meet Trust Fund Requirements.
- (B) Staff must provide a copy of a formal written complaint to the grant recipient whom it concerns and attempt to resolve the complaint. If the complaint is not resolved within ninety days after staff receives the complaint, staff must provide the Commission, complainant, and recipient with a written report of its efforts to resolve the complaint and recommendation of what action, if any, is appropriate.
- (C) Within thirty days of receipt of the staff report, the complainant and grant recipient may provide the Commission with a written response that may include additional information and may request review by the Commission.
- (D) Within a reasonable time, the Commission or a committee of its members appointed by the Commission must consider the staff report and any response. The Commission or committee must then dismiss the complaint or schedule an informal conference. The complainant and grant recipient are entitled to written notice of a dismissal or the date, time, and place of the conference.
- (E) At the informal conference, the staff member who conducted the investigation must be present barring extenuating circumstances. The complainant and grant recipient must have an opportunity to present information. The Commission must issue a written notice dismissing the complaint; requiring corrective action; or

terminating funds. The complainant and recipient are entitled to written notice of the decision.

- (F) If the Commission or committee decides to dismiss the complaint, the decision is final.
- (G) If the Commission or committee decides to terminate funding, within thirty days of receipt of written notice of the decision the grant recipient may file a request for review by the State Bar Court. The request must be submitted to the State Bar Court in accordance with the Rules of Procedure of the State Bar on Legal Services Trust Fund Proceedings. Pending a final decision by the State Bar Court, a current grant recipient must continue to receive funding.
- (H) The decision of the Commission to terminate funding is final if the grant recipient fails to file a timely request for review by the State Bar Court.

Rule 3.692 adopted effective March 6, 2009.

TITLE 3. PROGRAMS AND SERVICES

Division 5. Providers of Programs and Services

Chapter 3. Lawyer Referral Services

Article 1. Certification

Rule 3.800 Certification required

An individual or organization that refers prospective clients to attorneys must comply with minimum standards and be certified by the State Bar of California as a lawyer referral service unless exempt by law.¹ These rules set forth the minimum standards and certification requirements.

Rule 3.800 adopted as Rule 3.700 January 7, 2011; renumbered as Rule 3.800 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.801 Application for certification

- (A) To initiate or continue certification, a lawyer referral service must submit an Application for Certification as a Lawyer Referral Service and a separate application fee for each county in which it operates. The State Bar may waive the separate application requirement for a lawyer referral service operating in more than one county on written request supported by evidence and for good cause.
- (B) Notwithstanding provision (A), a lawyer referral service operating in two or more counties defined by the State Bar as underserved is required to submit only one application and one application fee to initiate or continue certification.
- (C) Every application must include panel membership criteria, including criteria for suspension and removal that provide for written notice and review with an opportunity to respond.
- (D) An application for initial certification may be submitted at any time. An application for continuance of certification must be submitted with the annual report required by Rule 3.828. Within a reasonable time, the State Bar will notify an applicant that certification has been granted or denied or that an application is incomplete or noncompliant.
- (E) An application must be completed in accordance with application instructions and filed with any required fee.

Rule 3.801 adopted as Rule 3.701 January 7, 2011; renumbered as Rule 3.801 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

¹ Business & Professions Code § 6155. See also California Rules of Professional Conduct, Rule ~~4-600~~5.4, Legal Service Programs.

Rule 3.802 Application fees

- (A) Application fees for initial and continued certification, which are set forth in the Schedule of Charges and Deadlines, depend on the number of counties in which a service operates and whether a service is non-profit or for-profit. Application fees may not exceed \$10,000 or one percent of gross annual revenues, whichever is less.²
- (B) An application fee not received by the deadline is subject to the late penalty set forth in the Schedule of Charges and Deadlines. If the fee and penalty are not received within thirty days of the deadline, certification may be suspended and the lawyer referral service must cease any activity subject to these rules.
- (C) Fifty percent of an initial application fee is refundable if an applicant submits a written request to withdraw the application within twenty days of submitting it. An application fee is otherwise not refundable.
- (D) An application or late fee for continued certification may be waived or reduced because of demonstrated financial necessity as evidenced by gross annual revenues, panel size, geographic area served, length of time in operation, or the like.

Rule 3.802 adopted as Rule 3.702 January 7, 2011; renumbered as Rule 3.802 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.803 Denial of application

- (A) An application for initial certification that fails to comply with these rules is denied in a written notice explaining the denial.
 - (1) Upon receipt of a notice of denial, an initial applicant may submit a written request for reconsideration within thirty days of the date of the notice. The request must explain why the application was compliant and be supported by any relevant evidence.
 - (2) Within sixty days of receiving a request for reconsideration of denial, the State Bar may grant certification or confirm denial of the initial application. If the denial is confirmed, the applicant may submit a petition for review to the State Bar Court in accordance with its rules.
 - (3) Denial of an application for initial certification does not preclude an applicant from submitting a new application. A new application must be submitted in accordance with application instructions and with the fee set forth in the Schedule of Charges and Deadlines.

² Business & Professions Code § 6155(f)(4).

- (B) An application for continued certification that fails to comply with these rules subjects a lawyer referral service to suspension or revocation pursuant to rule 3.806.

Rule 3.803 adopted as Rule 3.703 January 7, 2011; renumbered as Rule 3.803 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.804 Issuance of certification

The State Bar may grant certification with or without conditions for two years or a shorter time specified by the State Bar. Certification terminates at the end of the certification period unless renewed in accordance with these rules.

Rule 3.804 adopted as Rule 3.704 January 7, 2011; renumbered as Rule 3.804 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.805 Audits

Before granting or continuing certification, waiving an application fee, or at any other time, the State Bar may conduct an audit to determine whether a lawyer referral service has complied with these rules. Any audit must be at the expense of the lawyer referral service.

Rule 3.805 adopted as Rule 3.705 January 7, 2011; renumbered as Rule 3.805 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.806 Suspension or revocation of certification³

- (A) The State Bar may suspend or revoke certification of a lawyer referral service for failure to comply with these rules or for other good cause.
- (B) A lawyer referral service is entitled to notice of intention to suspend or revoke certification that states the reasons for the State Bar's action.
- (C) A lawyer referral service may file a written request for review of suspension or revocation of certification within thirty days of receipt of the notice. The request must explain why the action was inappropriate and be supported by any relevant evidence. Failure to request review results in final suspension or revocation of certification.
- (D) The State Bar must respond to a request for review that meets the requirements of these rules within sixty days of filing and give the lawyer referral service an opportunity to support the request. The State Bar may then continue, suspend, or revoke certification with or without conditions as it deems appropriate. The State

³ See Business & Professions Code § 6155(g).

Bar must provide the lawyer referral service a written statement of the reasons for its determination.

- (E) Within thirty days of receipt of the notice of suspension or revocation, the lawyer referral service may submit a petition for review to the State Bar Court in accordance with its rules. Certification is suspended or revoked for failure to submit a timely petition for review of suspension or revocation.
- (F) Pending review of a denial to continue certification, certification remains in effect unless the State Bar suspends or revokes it.
- (G) When suspension or revocation of certification is final, a lawyer referral service must immediately cease any activity subject to these rules, and the State Bar must notify every panel member of the lawyer referral service that certification has been suspended or revoked.

Rule 3.806 adopted as Rule 3.706 January 7, 2011; renumbered as Rule 3.806 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.807 Complaints about a lawyer referral service

- (A) The State Bar must review a complaint about a lawyer referral service submitted pursuant to these rules⁴ within a reasonable time and
 - (1) if the complaint demonstrates an apparent violation of these rules or other authority provide the service written notice of the complaint and an opportunity to respond; and
 - (2) provide written notice to the complainant regarding what action, if any, it deems appropriate.
- (B) A complaint and investigations related to it are the property of the State Bar and remain confidential until final suspension or revocation of certification or a proceeding is initiated in State Bar Court, whichever is earlier.

Rule 3.807 adopted as Rule 3.707 January 7, 2011; renumbered as Rule 3.807 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.808 Notice

In these rules, a notice or other document is deemed received the fifth day after being sent by first-class mail or upon actual receipt when delivered otherwise.

Rule 3.808 adopted as Rule 3.708 January 7, 2011; renumbered as Rule 3.808 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

⁴ Rule 3.820(E).

Article 2. Minimum standards for lawyer referral services

Rule 3.820 General duties of a lawyer referral service

A lawyer referral service must

- (A) have a governing committee; one or more panels of attorneys to provide legal services; and a staff to evaluate and process requests for legal assistance;
- (B) encourage widespread attorney membership;⁵
- (C) serve its community and improve the quality and affordability of legal services by
 - (1) assisting those in need of legal services to find a qualified, insured attorney or other appropriate legal services, including dispute resolution;
 - (2) providing the public with general information about appropriate legal services; and
 - (3) establishing services for persons of limited means unless it demonstrates that doing so is unreasonable or impractical given the community needs; its financial resources, staff size, or panel membership; the fees charged by its panel members; or the availability of pro bono or other legal services for persons of limited means;
- (D) charge no fee or combination of fees that increase a client's cost beyond that normally charged for legal services or that decrease the quantity or quality of services otherwise available to the client;⁶
- (E) tell each client how to submit a complaint about the service or one of its panel members and inform the client that an unresolved complaint may be submitted to the State Bar, provided it is in writing and supported by factual information that demonstrates a violation of these rules or other applicable authority;
- (F) if non-profit use its income only to pay reasonable operating expenses and to fund its pro bono, legal services, and other public service programs;
- (G) fully cooperate with any State Bar audit;⁷
- (H) provide each panel member a copy of these rules; and
- (I) at all times comply with these rules and applicable law.

⁵ Business & Professions Code § 6155(f)(1).

⁶ Business & Professions Code § 6155(a)(2).

⁷ See Rule 3.805.

Rule 3.820 adopted as Rule 3.720 January 7, 2011; renumbered as Rule 3.820 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.821 Ownership⁸

A lawyer referral service owned or operated by a bar association is deemed to be owned or operated by its governing committee. An attorney may not directly or indirectly own or operate a lawyer referral service if the attorney individually or jointly receives more than twenty percent of the referrals of the lawyer referral service.

Rule 3.821 adopted as Rule 3.721 January 7, 2011; renumbered as Rule 3.821 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.822 Governing committee

- (A) A lawyer referral service must be supervised by a governing committee of three or more members. A majority of the governing committee must be active ~~members~~licensees of the State Bar. No more than half the members of the governing committee may receive referrals from the lawyer referral service.
- (B) The governing committee must
 - (1) establish criteria for subject matter and general panel membership and use the criteria to evaluate panel members at least once every two years;
 - (2) establish and assess compliance with the referral procedures required by these rules;⁹
 - (3) review and submit the annual report required by these rules;¹⁰
 - (4) annually survey a random sample of at least ten percent of the clients of the service to determine client satisfaction with services and fees;
 - (5) on the basis of the annual survey, make any operational changes it deems necessary; and
 - (6) meet at least quarterly.

Rule 3.822 adopted as Rule 3.722 January 7, 2011; renumbered as Rule 3.822 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

⁸ Business & Professions Code § 6155(b).

⁹ Rule 3.826.

¹⁰ Rule 3.828.

Rule 3.823 Panels

- (A) A lawyer referral service must establish panels of attorney members qualified to provide legal services to the public. The panels must be organized by subject matter but may include a general panel. A lawyer referral service is encouraged to establish moderate and no-fee panels and other special panels that respond to the needs of the public.
- (B) At least twenty attorney members, ten of whom are from separate and independent law firms, are required for all lawyer referral services, and each panel must have at least four members. The State Bar may waive these minimum requirements if a lawyer referral service operates in an underserved county or provides written evidence that the size of the community or the number of its attorneys warrants a lesser number.
- (C) A lawyer referral service must require that each panel member
 - (1) have errors and omissions insurance in the amounts set forth in the Schedule of Charges and Deadlines and provide proof of insurance to the State Bar upon request;¹¹
 - (2) not receive referrals evaluated and processed by a lawyer referral service staff member employed or otherwise compensated by the panel attorney;
 - (3) agree in writing to submit any fee dispute to mandatory arbitration compliant with statute or State Bar requirements upon election of a client referred by the lawyer referral service.¹²
- (D) A lawyer referral service may disclose a panel member's past performance when the information is accurate, complete, and not misleading.

Rule 3.823 adopted as Rule 3.723 January 7, 2011; renumbered as Rule 3.823 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.824 Eligibility for membership

- (A) Only an active ~~member~~licensee of the State Bar practicing in the community served by the lawyer referral service may be a member of the service. To serve on a subject matter panel, such a member must meet the experience and other substantial and objective criteria of the lawyer referral service. Certification as a legal specialist qualifies an attorney to serve on a panel that deals with the area of certification, provided the attorney meets other criteria for panel membership.

¹¹ Business & Professions Code 6155(f)(6).

¹² See Business & Professions Code § 6200 et seq.

- (B) Panel membership may not be contingent upon membership in a sponsoring entity.

Rule 3.824 adopted as Rule 3.724 January 7, 2011; renumbered as Rule 3.824 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.825 Panel membership fees

- (A) Panel membership fees must be reasonable, encourage widespread panel membership, and otherwise comply with these rules and applicable law.¹³
- (B) Panel membership fees may not in any way be based on or guarantee contacts, calls, cases, referrals, or clients.
- (C) Panel members who are not members of a sponsoring entity may be required to pay a nominal charge for administrative services.

Rule 3.825 adopted as Rule 3.725 January 7, 2011; renumbered as Rule 3.825 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.826 Referrals

- (A) The governing committee of a lawyer referral service must establish fair and impartial procedures to assure that referrals are allocated equitably to panel members and respond insofar as possible to clients' legal needs and other circumstances, such as geographic convenience and language issues.
- (B) All referrals in a geographical area may not be made to a single attorney or law firm. The State Bar may deny certification or recertification for failure to make referrals fairly and impartially to panel members or to maintain current and complete records of referrals.
- (C) A referral may not
 - (1) discriminate on the basis of race, color, sex, age, religious creed, national origin, ancestry, sexual orientation, disability, medical condition, marital status, political affiliation, or veteran status;
 - (2) violate restrictions against unlawful solicitation and false and misleading advertising or otherwise violate the Rules of Professional Conduct or law applicable to a ~~member~~licensee of the State Bar;
 - (3) be made directly or indirectly by a person employed or otherwise compensated by an attorney or firm to whom the referral is made; or

¹³ Business & Professions Code § 6155(f)(1). See Rule 3.820(B).

- (4) be made exclusively by technological means without staff evaluation of client needs and panel members' qualifications.¹⁴

Rule 3.826 adopted as Rule 3.726 January 7, 2011; renumbered as Rule 3.826 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.827 Records

- (A) A lawyer referral service must maintain and provide to the State Bar upon request current records for
 - (1) each panel member that include
 - (a) name, contact information, and qualifications;
 - (b) number and type of referrals; and
 - (c) fees remitted for membership, referrals or consultations, advertising; or any other reason; and
 - (2) each referral that include
 - (a) the client's name and contact information;
 - (b) type of matter and date of referral; and
 - (c) panel member to whom the referral was made.
- (B) Any record in the possession of the State Bar pertaining to a lawyer referral service is the property of the State Bar and confidential unless authorized for disclosure by these rules, order of the Board of Trustees, or consent of the lawyer referral service.

Rule 3.827 adopted as Rule 3.727 January 7, 2011; renumbered as Rule 3.827 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.828 Annual report

- (A) The governing committee of a lawyer referral service must submit an annual report of its activities and those of the lawyer referral service. The report must at a minimum
 - (1) provide a detailed accounting of

¹⁴ Business & Professions Code § 6155(h)(2).

- (a) all sources and amounts of income, expenses, and reserves during the reporting period;
 - (b) the disposition of any reserves or surpluses derived from activities of the service during the reporting period and the immediately preceding reporting period;
- (2) include statistics derived from the records the service is required to maintain; and
- (3) summarize the annual client survey and any operational changes it prompted.¹⁵
- (B) Failure to submit an annual report on time suspends certification unless the State Bar extends the report deadline for good cause.

Rule 3.828 adopted as Rule 3.728 January 7, 2011; renumbered as Rule 3.828 November 4, 2011; approved by the Supreme Court effective January 21, 2014.

Rule 3.829 Publicity

- (A) Publicity, which includes advertising or any other kind of promotional material, must
 - (1) indicate that the purpose of the lawyer referral service is to serve its community and improve the quality and affordability of legal services as required by these rules;¹⁶ and
 - (2) acknowledge any sponsorship by the lawyer referral service; identify the counties in which the service operates; and provide the State Bar certification number or certification mark.
- (B) Any publicity by a lawyer referral service must comply with the California Rules of Professional Conduct and any other legal requirements.

¹⁵ Rule 3.822(B)(4) and (5).

¹⁶ See Rule 3.820(C).

(C) A copy of any publicity

(1) must be submitted with an application for certification or recertification;
and

(2) may be required with the annual report.¹⁷

Rule 3.829 adopted as Rule 3.729 January 7, 2011; renumbered as Rule 3.829 November 4, 2011; approved by the Supreme Court effective January 21, 2014. Amended March 7, 2014; amendment approved by the Supreme Court effective December 1, 2014.

¹⁷ Rule 3.828.

TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

Adopted July 2007

DIVISION 1. ADMISSION TO PRACTICE LAW IN CALIFORNIA

Chapter 1. General Provisions

Rule 4.1 Authority

The California Supreme Court exercises inherent jurisdiction over the practice of law in California. The Committee of Bar Examiners (“the Committee”) is authorized by law to administer the requirements for admission to practice law; to examine all applicants for admission; and to certify to the Supreme Court for admission those applicants who fulfill the requirements.¹

Rule 4.1 adopted effective September 1, 2008.

Rule 4.2 What these rules are

These rules apply to persons seeking to practice law in California. Nothing in these rules may be construed as affecting the power of the California Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

Rule 4.2 adopted effective September 1, 2008.

Rule 4.3 Definitions

These definitions apply to the rules in this Division unless otherwise indicated.

- (A) An “American Bar Association Approved Law School” is a law school fully or provisionally approved by the American Bar Association and deemed accredited by the Committee.
- (B) An “attorney applicant” is an applicant who is or has been admitted as an attorney to the practice of law in any jurisdiction.
- (C) The “Attorneys’ Examination” is the California Bar Examination for which attorney applicants may apply, provided they have been admitted to the active practice of law in a United States jurisdiction at least four years immediately prior to the first day of administration of the examination and have been in good standing during that period. The Attorneys’ Examination includes essay questions and performance tests of the General Bar Examination but not its multiple-choice questions.

¹ Business & Professions Code § 6046.

- (D) A “California accredited law school” is a law school accredited by the Committee but not approved by the American Bar Association.
- (E) The “California Bar Examination” is the examination administered by the Committee that an applicant must pass to be certified to the California Supreme Court as qualified for admission to practice law in California. The California Bar Examination includes the General Bar Examination and the Attorneys’ Examination.
- (F) “The Committee” is the Committee of Bar Examiners of the State Bar of California or, unless otherwise indicated, a subcommittee of two or more of its members whom the Committee authorizes to act on its behalf.
- (G) A “general applicant” is an applicant who has not been admitted as an attorney to the practice of law in any jurisdiction.
- (H) The “General Bar Examination” is the California Bar Examination required of every general applicant. The General Bar Examination consists of multiple-choice questions, essay questions, and performance tests.
- (I) The “First-Year Law Students’ Examination” is the examination administered by the Committee that an applicant must pass, unless otherwise exempt.² It includes questions on contracts, torts, and criminal law.
- (J) An “informal conference” is defined in Rule 4.45.
- (K) The “Office of Admissions” (“Admissions”) is the State Bar office authorized by the Committee to administer examinations and otherwise act on its behalf.
- (L) “Receipt” of a document the Committee sends an applicant is
 - (1) calculated from the date of mailing and is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States; or
 - (2) when the Committee delivers a document physically by personal service or otherwise.
- (M) “Receipt” of a document sent to the Committee is when it is physically received at the Office of Admissions.
- (N) “Senior Executive” means “Senior Executive, Admissions” or that person’s designee.

² Business & Professions Code § 6060(h).

- (O) An “unaccredited law school” is a correspondence, distance-learning, or fixed-facility law school operating in California that the Committee registers but does not accredit.
- (P) For purposes of calculating law study credit toward meeting the legal education requirements necessary to qualify to take the First-Year Law Students’ Examination and California Bar Examination, a year is defined as the law study successfully completed in the time between the same calendar dates for consecutive calendar years, minus one day.

Rule 4.3 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.4 Confidentiality

Applicant records are confidential unless required to be disclosed by law;³ required by the State Bar’s Executive Director, Chief Trial Counsel, or General Counsel to fulfill their responsibilities for regulation of the practice of law; or authorized by the applicant in writing for release to others.

Rule 4.4 adopted effective September 1, 2008.

Rule 4.5 Submissions

- (A) A document filed with the Committee pursuant to these rules must be completed according to instructions; verified or made under penalty of perjury;⁴ and submitted with any required fee.
- (B) A document, which must be complete as defined by the instructions for filing, is deemed filed upon receipt.
- (C) Fingerprints provided by applicants are used to establish identity and disclose criminal records in California or elsewhere. Fingerprint records are confidential and for official use of the Committee and the State Bar.
- (D) Information on an examination application that is not required but submitted voluntarily, including ethnic survey and identification information furnished with applications to take the California Bar Examination, is separated from the applications at initial processing and may not be associated with applicants, their files, or their examination answers during grading unless there is reasonable doubt about the identity of a person taking an examination and the Committee requires the information to verify identity.

Rule 4.5 adopted effective September 1, 2008; amended effective July 22, 2011.

³ Evidence Code § 1040, Business & Professions Code §§ 6044.5, 6060.2, [6060.25](#), 6086, and 6090.6.

⁴ Code of Civil Procedure § 2015.5.

Rule 4.6 Investigations and hearings

In conducting an investigation or hearing, the Committee or the State Bar Court may receive evidence; administer oaths and affirmations; and compel by subpoena the attendance of witnesses and the production of documents.

Rule 4.6 adopted effective September 1, 2008.

Rule 4.7 Statistics

The Committee may publish statistics for each examination in accordance with its policies.

Rule 4.7 adopted effective September 1, 2008.

Rule 4.8 Extensions of time

The time limits for Committee actions specified in these rules are norms for processing. The time limits are not jurisdictional and the Committee may extend them for good cause.

Rule 4.8 adopted effective September 1, 2008.

Rule 4.9 Review by Supreme Court

An applicant refused certification to the Supreme Court of California for admission to practice law in California may have the action of the Committee reviewed by the Supreme Court of California in accordance with its procedures.

Rule 4.9 adopted effective September 1, 2008.

Rule 4.10 Fees

The Committee may set reasonable fees, subject to approval of the Board of Trustees, for its services such as application filing, reports, copying documents and providing letters of verification.

Rule 4.10 adopted effective November 14, 2009; amended effective January 1, 2012.

Chapter 2. Overview Of Admission Requirements

Rule 4.15 Certification to California Supreme Court

To be eligible for certification to the California Supreme Court for admission to the practice of law, an applicant for admission must:

- (A) be at least eighteen years of age;
- (B) file an Application for Admission with the Committee;
- (C) meet the requirements of these rules regarding education or admission as an attorney in another jurisdiction, determination of moral character, and examinations;
- (D) be in compliance with California court-ordered child or family support obligations pursuant to Family Code § 17520;
- (E) be in compliance with tax obligations pursuant to Business and Professions Code section 494.5;
- (F) until admitted to the practice of law, notify the Committee within thirty days of any change in information provided on an application; and
- (G) otherwise meet statutory criteria for certification to the Supreme Court.⁵

Rule 4.15 adopted effective September 1, 2008; amended effective January 17, 2014.

⁵ Business & Professions Code § 6060.

Rule 4.16 Application for Admission

- (A) An Application for Admission consists of an Application for Registration, an Application for Determination of Moral Character, and an application for any required examination. Each application must be submitted with the required documentation and the fees set forth in the Schedule of Charges and Deadlines. The Committee determines when an application is complete.
- (B) The Application for Registration must be approved, before any other application is transmitted to the Committee. The applicant is required by law either to provide the Committee with a Social Security Number⁶ or to request an exemption because of ineligibility for a Social Security Number.⁷ Registration is deemed abandoned if all required documentation and fees have not been received within sixty days of submittal. No refund is issued for an abandoned registration.
- (C) After approval of the Application for Registration, an applicant for admission may submit an Application for Determination of Moral Character, an application for any examination as required by these rules and any other document or petition permitted by these rules.

Rule 4.16 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.17 Admission certification and time limit

- (A) No later than five years from the last day of administration of the California Bar Examination the applicant passes,
 - (1) an applicant must meet all requirements for admission for certification by the Committee to the California Supreme Court; and
 - (2) upon receipt of an order from the Court, take the attorney's oath and meet State Bar registration requirements to be eligible to practice law in California.
- (B) The Committee may extend this five-year limit for good cause shown by clear and convincing evidence in a particular case but not for an applicant's negligence or the result of an applicant having received a negative moral character determination.

Rule 4.17 adopted effective September 1, 2008; amended effective November 14, 2009.

⁶ Business & Professions Code § 30, Family Code § 17520.

⁷ Business & Professions Code § 6060.6.

Chapter 3. Required Education

Rule 4.25 General education

Before beginning the study of law, a general applicant must have completed at least two years of college work or demonstrated equivalent intellectual achievement, which must be certified by the law school the applicant is attending upon request by the Committee.

- (A) “Two years of college work” means a minimum of sixty semester or ninety quarter units of college credit
 - (1) equivalent to at least half that required for a bachelor’s degree from a college or university that has degree-granting authority from the state in which it is located; and
 - (2) completed with a grade average adequate for graduation.
- (B) “Demonstrated equivalent intellectual achievement” means achieving acceptable scores on Committee-specified examinations prior to beginning the study of law.

Rule 4.25 adopted effective September 1, 2008.

Rule 4.26 Legal education

General applicants for the California Bar Examination must

- (A) have received a juris doctor (J.D.) or bachelor of laws (LL.B) degree from a law school approved by the American Bar Association or accredited by the Committee; or
- (B) demonstrate that in accordance with these rules and the requirements of Business & Professions Code §6060(e)(2) they have
 - (1) studied law diligently and in good faith for at least four years in a law school registered with the Committee; in a law office; in a judge’s chambers; or by some combination of these methods; or
 - (2) met the requirements of these rules for legal education in a foreign state or country; and
- (C) have passed or established exemption from the First-Year Law Students' Examination.

Rule 4.26 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.27 Study in a fixed-facility unaccredited law school

To receive credit for one year of study in a fixed-facility unaccredited law school registered with the Committee, a student must receive passing grades in courses requiring classroom attendance by its students for a minimum of 270 hours a year.

Rule 4.27 adopted effective September 1, 2008.

Rule 4.28 Study by correspondence or distance learning

- (A) To receive credit for one year of study by correspondence or distance learning in an unaccredited law school registered with the Committee, a student must receive passing grades in courses requiring at least 864 hours of preparation and study over no fewer than forty-eight and no more than fifty-two consecutive weeks in one year evidenced by a transcript that indicates the date each course began and ended.
- (B) To receive credit for one-half year of study by correspondence or distance learning in an unaccredited law school registered with the Committee, a student must receive passing grades in courses requiring at least 432 hours of preparation and study over no fewer than twenty-four and no more than twenty-six consecutive weeks, evidenced by a transcript that indicates the date each course began and ended.
- (C) To receive credit, a student studying by correspondence or distance learning may not begin a subsequent year of study prior to completion of one year of study as defined in rule 4.3(P) of these rules.

Rule 4.28 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.29 Study in a law office or judge's chambers

- (A) A person who intends to comply with the legal education requirements of these rules by study in a law office or judge's chambers must
 - (1) submit the required form with the fee set forth in the Schedule of Charges and Deadlines within thirty days of beginning study;
 - (2) submit semi-annual reports, as required by section (B)(5) below on the Committee's form with the fee set forth in the Schedule of Charges and Deadlines within thirty days of completion of each six-month period; and
 - (3) have studied law in a law office or judge's chambers during regular business hours for at least eighteen hours each week for a minimum of forty-eight weeks to receive credit for one year of study or for at least eighteen hours a week for a minimum of twenty-four weeks to receive credit for one-half year of study.

- (B) The attorney or judge with whom the applicant is studying must
- (1) be admitted to the active practice of law in California and be in good standing for a minimum of five years;
 - (2) provide the Committee within thirty days of the applicant's beginning study an outline of a proposed course of instruction that he or she will personally supervise;
 - (3) personally supervise the applicant at least five hours a week;
 - (4) examine the applicant at least once a month on study completed the previous month;
 - (5) report to the Committee every six months on the Committee's form the number of hours the applicant studied each week during business hours in the law office or chambers; the number of hours devoted to supervision; specific information on the books and other materials studied, such as chapter names, page numbers, and the like the name of any other applicant supervised and any other information the Committee may require; and
 - (6) not personally supervise more than two applicants simultaneously.

Rule 4.29 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.30 Legal education in a foreign state or country

Persons who have studied law in a law school in a foreign state or country may qualify as general applicants provided that they

- (A) have a first degree in law, acceptable to the Committee, from a law school in the foreign state or country and have completed a year of legal education at an American Bar Association Approved Law School or a California accredited law school in areas of law prescribed by the Committee; or
- (B) have a legal education from a law school located in a foreign state or country without a first degree in law, acceptable to the Committee, and
 - (1) have met the general education requirements;
 - (2) have studied law as permitted by these rules in a law school, in a law office or judge's chambers, or by any combination of these methods (up to one year of legal education credit may be awarded for foreign law study completed); and

- (3) have passed the First-Year Law Students' Examination in accordance with these rules and Committee policies.

Rule 4.30 adopted effective September 1, 2008.

Rule 4.31 Credit for law study after passing the First-Year Law Students' Examination

An applicant who is required to pass the First-Year Law Students' Examination will not receive credit for any law study until the applicant passes the examination. An applicant who passes the examination within three consecutive administrations of first becoming eligible to take the examination, will receive credit for all law study completed to the date of the administration of the examination passed, subject to any restrictions otherwise covered by these rules. An applicant who does not pass the examination within three consecutive administrations of first becoming eligible to take the examination but who subsequently passes the examination will receive credit for his or her first year of law study only.

Rule 4.31 adopted effective November 14, 2009.

Rule 4.32 Repeated courses

The Committee does not recognize credit for repetition of a course or substantially the same course.

Rule 4.32 adopted as Rule 4.31 effective September 1, 2008; renumbered as Rule 4.32 effective November 14, 2009.

Rule 4.33 Evaluation of study completed or contemplated

An applicant may request that the Committee determine whether general or legal education contemplated or completed by the applicant meets the eligibility requirements of these rules for beginning the study of law, the First-Year Law Students' Examination or the California Bar Examination. The request must be submitted on the required form with certified transcripts and the fee set forth in the Schedule of Charges and Deadlines. A written response indicating whether or not the education is sufficient will be issued within sixty days of receipt of the request.

Rule 4.33 adopted as Rule 4.32 effective September 1, 2008; renumbered as rule 4.33 effective November 14, 2009.

Chapter 4. Moral Character Determination

Rule 4.40 Moral Character Determination

- (A) An applicant must be of good moral character as determined by the Committee. The applicant has the burden of establishing that he or she is of good moral character.
- (B) “Good moral character” includes but is not limited to qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the law, and respect for the rights of others and the judicial process.

Rule 4.40 adopted effective September 1, 2008.

Rule 4.41 Application for Determination of Moral Character

- (A) An applicant must submit an Application for Determination of Moral Character with required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending or is otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.
- (B) An Application for Determination of Moral Character may be submitted any time after filing an Application for Registration but is deemed filed only when the application is complete.

Rule 4.41 adopted effective September 1, 2008; amended effective November 14, 2009; amended effective July 22, 2011; amended effective March 9, 2018.

Rule 4.42 Duty to update Application for Determination of Moral Character

Until admitted to practice law, an applicant who has submitted an Application for Determination of Moral Character has a continuing duty to promptly notify the Office of Admissions whenever information provided in the application has changed or there is new information relevant to the application. Failure to provide updated information within thirty days after the change or addition to the information originally submitted may be cause for suspension of a positive moral character determination.

Rule 4.42 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.43 Abandonment of Application for Determination of Moral Character

- (A) An Application for Determination of Moral Character is deemed abandoned and ineligible for a refund of fees if
 - (1) it is not complete within sixty days after being initiated; or
 - (2) it is complete but the applicant has failed to provide additional information requested by the Committee within ninety days of the request.
- (B) A new Application for Determination of Moral Character must be submitted with the required fee if an application has been abandoned.

Rule 4.43 adopted effective September 1, 2008.

Rule 4.44 Withdrawal of Application for Determination of Moral Character

- (A) An applicant may withdraw an Application for Determination of Moral Character any time before being notified that the Committee is unable to make a determination without further inquiry and analysis.
- (B) An applicant may withdraw an application filed with the State Bar Court for a hearing on an adverse determination of moral character by filing a request for withdrawal with the Office of Chief Trial Counsel and forwarding a copy to the Committee at its San Francisco office.

Rule 4.44 adopted effective September 1, 2008; amended effective November 18, 2016.

Rule 4.45 Notice regarding status of Application for Determination of Moral Character

- (A) Within 180 days of receiving a completed Application for Determination of Moral Character, the Committee notifies an applicant that its determination of moral character is positive or that it requires further consideration. A positive determination is valid for thirty-six months.
- (B) While an Application for Determination of Moral Character remains pending, a status report is issued to the applicant at least every 120 days.
- (C) Within 120 days of receiving additional information it has requested, the Committee notifies the applicant that
 - (1) the applicant is determined to be of good moral character;
 - (2) the applicant has not met the burden of establishing good moral character;
 - (3) the application requires further consideration;

- (4) the applicant is invited to an informal conference with the Committee; or
- (5) the applicant is advised to enter into an Agreement of Abeyance with the Committee.

Rule 4.45 adopted effective September 1, 2008; amended effective November 18, 2016.

Rule 4.46 Informal conference regarding moral character

- (A) The Committee may invite an applicant for a determination of moral character to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and declining it entails no negative inference.
- (B) An applicant notified of an adverse determination of moral character may request an informal conference with the Committee, provided the applicant has not previously declined the Committee's invitation to an informal conference. The request must be in writing and submitted to the Committee at its San Francisco office within thirty days of the date of the notice. Within sixty days of receiving a timely request, the State Bar must schedule the informal conference, and within thirty days of the conference notify the applicant of its final determination. An adverse determination may be reviewed by the Committee in accordance with these rules.
- (C) The State Bar may establish procedures for an informal conference and create a record of it by tape recording, video recording, or any other means. The applicant may attend the conference with counsel; make a written or oral statement; and present documentary evidence. Counsel is limited to observation and may not participate.

Rule 4.46 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.47 Appeal of adverse determination of moral character

- (A) An applicant notified of an adverse determination of moral character may file a request for hearing on the determination with the State Bar Court in accordance with the Rules of Procedure of the State Bar on Moral Character Proceedings. The request must be filed with the fee set forth in the Schedule of Charges and Deadlines within sixty days of the date of service of the notice of adverse determination.
- (B) A copy of the request for hearing must be served on the Committee and the Office of Chief Trial Counsel at the San Francisco office of the State Bar. Upon receipt of service, the Committee must promptly transmit all files related to the application to the Office of Chief Trial Counsel.

Rule 4.47 adopted effective September 1, 2008; amended effective July 24, 2015.

Rule 4.48 Agreement of Abeyance

- (A) The Committee and an applicant may suspend processing of an Application for Determination of Moral Character by an Agreement of Abeyance
 - (1) when a court has ordered an applicant charged with a crime to be treated, rehabilitated, or otherwise diverted;
 - (2) when a court has suspended the sentence of an applicant convicted of a crime and placed the applicant on probation;
 - (3) when an applicant is actively seeking or obtaining treatment for chemical dependency or drug or alcohol addiction; or
 - (4) if the Committee and an applicant otherwise agree.
- (B) An Agreement of Abeyance must be in writing and specify the period and conditions of abeyance. A copy must be provided to the applicant.

Rule 4.48 adopted effective September 1, 2008.

Rule 4.49 New application following adverse determination of moral character

The Committee may permit an applicant who has received an adverse moral character determination to file another Application for Determination of Moral Character two years from the date of the final determination or at some other time set by the Committee, for good cause shown, at the time of its adverse determination.

Rule 4.49 adopted effective September 1, 2008; amended effective July 24, 2015.

Rule 4.50 Suspension of positive determination of moral character

- (A) Before certifying an applicant for admission to the practice of law, the Committee may notify an applicant that it has suspended a positive determination of moral character if it receives information that reasonably calls the applicant's character into question. The notice must specify the grounds for the suspension.
- (B) The application of an applicant whose positive determination has been suspended is processed in accordance with Rule 4.45.

Rule 4.50 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.51 Validity period of positive moral character determination

A positive determination of moral character is valid for thirty-six months. An applicant with a positive determination who has not been certified to practice law within this validity period must submit an Application for Extension of Determination of Moral Character.

Rule 4.51 adopted effective September 1, 2008.

Rule 4.52 Extension of positive moral character determination

An applicant who has received a positive moral character determination may submit an Application for Extension of Determination of Moral Character. The application must be filed in the last six months of the initial thirty-six month validity period with the required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. If the Committee makes a positive determination before the initial thirty-six months expires, the initial thirty-six months is extended an additional thirty-six months. If the Committee makes a positive determination after expiration of the initial thirty-six months, an extension of thirty-six months begins at the time of its determination.

Rule 4.52 adopted effective September 1, 2008.

Chapter 5. Examinations

Rule 4.55 First-Year Law Students' Examination requirement

- (A) A general applicant intending to seek admission to practice law in California must take the First-Year Law Students' Examination unless the applicant
 - (1) has satisfactorily completed
 - (a) at least two years of college work as defined by these rules and the Committee's guidelines; and
 - (b) the first-year course of instruction
 - (i) at a law school that was approved by the American Bar Association or accredited by the Committee when the study was begun or completed; and
 - (ii) the law school has advanced the person, whether or not on probation, to the second-year of instruction; or
 - (2) is exempt by reason of study in a foreign law school as provided by these rules.

- (B) An applicant who passes the First-Year Law Students' Examination will receive credit for
- (1) all law study completed upon passing the examination within three administrations of the examination after first becoming eligible to take it; or
 - (2) the first year of law study only upon passing the examination after more than three administrations of the examination after first becoming eligible to take it.

Rule 4.55 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.56 First-Year Law Students' Examination

The First-Year Law Students' Examination is given each year in June and October at test centers in California designated by the Committee. The Committee determines the examination's format, scope, topics, content, questions, grading process, and passing score.

Rule 4.56 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.57 Exempt applicants taking First-Year Law Students' Examination

An applicant who is exempt from the First-Year Law Students' Examination may apply for and take the examination. Failing the examination does not affect the applicant's status under these rules.

Rule 4.57 adopted effective September 1, 2008.

Rule 4.58 Application for the First-Year Law Students' Examination

- (A) An application to take the First-Year Law Students' Examination in June must be submitted by April 1. An application to take the examination in October must be submitted by August 1. Applications received after these deadlines and by May 15 or September 15 are subject to a late fee. Applications are not accepted after those dates. Application fees and late fees are set forth in the Schedule of Charges and Deadlines. If a deadline falls on a non-business day, the deadline will be the next business day.
- (B) Different deadlines for initial filing and late fees apply to applicants who fail the First-Year Law Students' Examination and intend to take the next scheduled examination. These deadlines are set forth in the notice of examination results and are more than ten days from the date those results are released.

- (C) Applications that are unsigned or incomplete for any reason as of the final examination application filing deadline are deemed abandoned and ineligible for a refund of fees.
- (D) Applications for which eligibility documents have not been received by the date set forth in the Schedule of Charges and Deadlines are abandoned and ineligible for a refund of fees.

Rule 4.58 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.59 Multistate Professional Responsibility Examination

Every applicant must take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners, and receive a passing score as determined by the Committee. The examination may be taken following completion of the first year of law study or later. The Committee must receive official notice of an MPRE passing score before an applicant is deemed to have passed the examination.

Rule 4.59 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.60 California Bar Examination

- (A) The California Bar Examination is given each year in February and July at test centers in California designated by the Committee. The Committee determines the examination's format, scope, topics, content, questions, grading process, and passing score.
- (B) The Committee provides the California Supreme Court a report on each administration of the examination as soon as practical.

Rule 4.60 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.61 Applications for the California Bar Examination

- (A) Applications for the California Bar Examination are available March 1 for the July examination and October 1 for the February examination. An application must be submitted no later than April 1 for the July examination or November 1 for the February examination. Applications received after these deadlines and by June 15 or January 15 are subject to late fees. Applications are not accepted after those dates. Application fees and late fees are set forth in the Schedule of Charges and Deadlines. If a deadline falls on a non-business day, the deadline will be the next business day.
- (B) Different deadlines for initial filing and late fees apply to applicants who fail the California Bar Examination and intend to take the next scheduled examination.

These deadlines are set forth in the notice of examination results and are a minimum of ten days from the date those results are released.

- (C) Applications are deemed abandoned and ineligible for a refund of fees if
 - (1) they are incomplete or unsigned by the final examination application filing deadline;
 - (2) the applicant has not provided additional information requested by the final eligibility deadline; or
 - (3) eligibility cannot be determined by the final eligibility deadline.

Rule 4.61 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.62 Access to examination answers and scores

- (A) Within sixty days of the release of examination results, examination answers to the written portions of the examination are returned to applicants for admission who have failed the California Bar Examination or who have passed or failed the First-Year Law Students' Examination. This provision does not apply to the Multistate Professional Responsibility Examination or the multiple-choice portion of the First-Year Law Students' Examination and California Bar Examination.
- (B) Applicants who pass the California Bar Examination are not entitled to receive their examination answers or to see their scores.

Rule 4.62 adopted effective September 1, 2008.

Chapter 6. Conduct At Examinations

Rule 4.70 Conduct required at examinations

Applicants are expected to conduct themselves professionally at all times at an examination test center. Conduct that violates the security or administration of an examination may be reported to the Committee or, in extreme cases, require dismissal from the examination test center. Unacceptable conduct may include, but is not limited to, having unauthorized items, writing or typing after time has been called, looking at another applicant's answers, talking when silence is required, or abusive behavior.

Rule 4.70 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.71 Reports of conduct violations

- (A) A subcommittee designated by the Committee considers reports of the Chapter 6 Notices that have been issued to applicants during or following an administration

of an examination for as soon as practicable and no later than the first Committee meeting following the examination.

- (B) If the Subcommittee affirms the Chapter 6 Notice, the applicant must be notified of its proposed sanction within thirty days. Sanctions may include assigning a score of zero for a question, a session, or an entire examination. An examination score may be held in abeyance pending resolution of the matter.
- (C) The Committee may establish guidelines for the processing of conduct violations. The Committee may establish specific sanctions for certain undisputed conduct violations, such as bringing an unauthorized item into the examination room. An applicant sanctioned for an undisputed conduct violation is not entitled to an administrative hearing.

Rule 4.71 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.72 Request for an administrative hearing on conduct violation

- (A) An applicant notified of a conduct violation for which a specific sanction has not been established by examination rules or guidelines may file a written request for an administrative hearing on the subcommittee's findings. The request must be filed within twenty days of receipt of the notice or the proposed sanction will take effect. For good cause shown by clear and convincing evidence the Committee may extend the filing deadline.
- (B) To hear the request, the Senior Executive will designate a panel of three Committee members, one of whom is to serve as Chair. Panel members must not have served on the subcommittee that reviewed the report of conduct violation.
- (C) Once an applicant has filed a request for an administrative hearing on a conduct violation, the Committee must schedule an administrative hearing within ninety days, or at a later time for good cause, and notify the applicant of the time and place of the hearing.

Rule 4.72 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.73 Procedure for an administrative hearing on conduct violation

- (A) The Committee may establish procedures for conducting administrative hearings on conduct violations. A record of a hearing can be established by tape recording, video recording, or any other means. The applicant may attend the administrative hearing with counsel; make a written or oral statement; and present documentary evidence. Applicant's counsel is limited to observation and may not participate.

- (B) The Committee has the burden of establishing by clear and convincing evidence that a violation occurred.
- (C) The panel must render Findings and Recommendations no later than thirty days after the administrative hearing, which must be served on the applicant and counsel present at the hearing, and provided to the Committee for consideration during its next regularly scheduled meeting. The panel may recommend the sanction originally proposed or any other action it deems appropriate. The applicant may request review of the panel's determination within ten days of service.

Rule 4.73 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.74 Review of Findings and Recommendations

- (A) An applicant may request review of the Findings and Recommendations within ten days of service. The Committee must consider the applicant's request, any record of the hearing, the Findings and Recommendations, and any supplemental material the applicant provides in accordance with Committee requirements during its next regularly scheduled meeting. Neither the applicant nor applicant's counsel is permitted to attend.
- (B) The Committee may on its own determine that the panel's Findings and Recommendations should be reviewed.
- (C) The Committee may adopt the Findings and Recommendations of the hearing panel or take any other action it deems appropriate.
- (D) The Committee will notify the applicant within ten days of its determination.
- (E) If the applicant does not request review of the Findings and Recommendations of the panel within ten days of service and the Committee does not seek review, the panel's Findings and Recommendations become the decision of the Committee.

Rule 4.74 adopted effective September 1, 2008; amended effective July 22, 2011.

Chapter 7. Testing Accommodations

Rule 4.80 Eligibility for testing accommodations

Applicants with disabilities are granted reasonable testing accommodations provided that they are capable of demonstrating that they are otherwise eligible to take an examination and, in accordance with these rules, they

- (A) have submitted an approved Application for Registration;

- (B) submit a petition for testing accommodations on the Committee's forms with the required documentation;
- (C) establish to the satisfaction of the Committee the existence of a disability that prevents them from taking an examination under standard testing conditions; that testing accommodations are necessary to address the functional limitations related to their disabilities; and the testing accommodations sought are reasonable and appropriate for their disabilities; and,
- (D) separately apply for the examination for which testing accommodations are requested.

Rule 4.80 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.81 Testing accommodations in general

- (A) Petitions for testing accommodations are processed on a case-by-case basis.
- (B) The Committee makes its best effort to process petitions for testing accommodations expeditiously but does not process petitions that are incomplete.
- (C) Time limits in testing accommodations rules are solely to expedite the processing of petitions and are not jurisdictional. The Committee may extend them for good cause.
- (D) An examination application fee is not refunded if a request for testing accommodations is denied.

Rule 4.81 adopted effective September 1, 2008.

Rule 4.82 Definitions

These definitions apply to the rules on and petitions for testing accommodations.

- (A) A "disability" is a physical or mental impairment that limits one or more of an applicant's major life activities, and limits an applicant's ability to demonstrate under standard testing conditions that the applicant possesses the knowledge, skills, and abilities tested on an examination.
- (B) A "physical impairment" is a physiological disorder or condition or an anatomical loss affecting one or more of the body's systems.
- (C) A "mental impairment" is a mental or psychological disorder such as organic brain syndrome, emotional or mental illness, attention deficit/hyperactivity disorder, or a specific learning disability.

- (D) A “reasonable testing accommodation” is an adjustment to or modification of standard testing conditions that addresses the functional limitations related to an applicant’s disability by modifications to rules, policies, or practices; removal of architectural, communication, or transportation barriers; or provision of auxiliary aids and services, provided that they do not
- (1) compromise the security or validity of an examination or the integrity or of the examination process;
 - (2) impose an undue burden on the Committee; or
 - (3) fundamentally alter the nature of an examination or the Committee’s ability to assess through the examination whether the applicant
 - (a) possesses the knowledge, skills, and abilities tested on an examination; and
 - (b) meets the essential eligibility requirements for admission.

Rule 4.82 adopted effective September 1, 2008.

Rule 4.83 Guidelines for testing accommodations

- (A) The publishes guidelines for documenting the need for testing accommodations based on learning disabilities and attention deficit/hyperactivity disorder, including testing required to establish the existence of the disability and the reasonableness of the accommodations requested.
- (B) The Committee may publish guidelines for other disabilities accommodated on past examinations.

Rule 4.83 adopted effective September 1, 2008.

Rule 4.84 When to file a petition for testing accommodations

- (A) A Petition For Testing Accommodations is not an application for a bar examination. Filing one does not constitute filing the other or initiate its processing. An applicant must separately apply for an examination.
- (B) An applicant is encouraged to file a Petition For Testing Accommodations as far in advance as practicable. To allow sufficient processing time, general applicants are encouraged to submit their petitions at least by the beginning of their last year of law study and attorney applicants no later than six months prior to the examination they wish to take. If an applicant waits until the final examination application deadline for a particular examination to petition for testing accommodations, it is possible that processing will not be completed or the

applicant will not be able to complete all required or available procedures prior to administration of the examination.

- (C) A Petition For Testing Accommodations must be complete and receipt must be no later than

- (1) January 15 for the February California Bar Examination;

- (2) June 15 for the July California Bar Examination;

- (3) May 15 for the June First-Year Law Students' Examination; or

- (4) September 15 for the October First-Year Law Students' Examination.

If a deadline falls on a non-business day, the deadline will be the next business day. Deadlines are not extended or waived for any reason except as permitted in Rule 4.87.

- (D) Depending on the nature of a disability and the date on which a petition is filed, the Committee may determine that the changing nature of a disability requires that the applicant file a new petition nearer the examination date or that a decision regarding the petition be deferred.

Rule 4.84 adopted effective September 1, 2008; amended effective November 14, 2009; amended effective July 22, 2011.

Rule 4.85 Initial Petition For Testing Accommodations

- (A) An applicant with a qualified disability seeking testing accommodations must file a Petition for Testing Accommodations on the Committee's form.

- (B) In addition to the Petition for Testing Accommodations, a qualified applicant seeking testing accommodations must also provide with the petition the specific specialist verification forms the Committee determines are appropriate to verify applicants' disabilities.

- (C) If a law school has provided testing accommodations, a qualified applicant must submit the petition with the designated Committee form, completed by a law school official or legal education supervisor.

- (D) If another state has provided accommodations for its bar examination, a qualified applicant must submit the petition with the designated Committee form, completed by an official responsible for testing accommodations.

- (E) If another testing agency has provided accommodations for its examination, a qualified applicant may be required to submit the petition with a copy of the accommodations notice.

- (F) A Petition for Testing Accommodations is considered complete only upon receipt of all required forms that have been completed according to instructions. A petition that is incomplete by a final examination application deadline is not processed for that examination.

Rule 4.85 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.86 Subsequent petitions for testing accommodations

- (A) Testing accommodations are not automatically extended upon failure of an examination but must be requested for a subsequent examination any time before the examination application deadline.
- (B) An applicant who is permanently disabled may petition for the same accommodations rather than submit an entirely new petition. A subsequent petition must be made in accordance with Committee requirements.
- (C) An applicant who has a temporary disability or who seeks different accommodations than those previously granted must file a new Petition for Testing Accommodations by the application final filing deadline if filed in connection with a particular administration of an examination.

Rule 4.86 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.87 Emergency petitions for testing accommodations

An applicant who becomes disabled after a final examination application filing deadline may file a Petition for Testing Accommodations, which must include the forms required by Rule 4.85, with a request that it be considered as an emergency petition. Documentation explaining the nature, date, and circumstances of the emergency must be filed with the petition. Receipt of the petition and supporting documentation must be at least ten days before the first day of the examination. This rule does not apply to disabilities that existed before the final deadline for an examination application, whether or not they were diagnosed or a visit to a treating professional could be arranged.

Rule 4.87 adopted effective September 1, 2008.

Rule 4.88 Committee response to Petition For Testing Accommodations

- (A) An applicant who has filed a Petition For Testing Accommodations in accordance with these rules is notified in writing within thirty days of receipt when additional information is required, and within sixty days when the petition is granted, granted with modifications, denied, or action is pending.

- (B) If a complete petition is filed at least six months before the examination for which testing accommodations are sought, the applicant may expect a final determination at least a month before the examination.
- (C) With the consent of the petitioner, the Senior Executive or a consultant may confer with a specialist who has treated the petitioner.
- (D) A notice of denial of a Petition For Testing Accommodations or a modified grant is sent by certified mail. The notice states the reasons for the denial or modifications, and advises the petitioner of any right to appeal. The notice may include an excerpt of a consultant's evaluation.

Rule 4.88 adopted effective September 1, 2008; amended effective July 22, 2011.

Rule 4.89 Applicant response to proposed modification or request for information

An applicant has thirty days to respond to a request for additional information unless an examination schedule requires a shorter time. If the applicant fails to make a timely response, the request is processed on the basis of information submitted.

Rule 4.89 adopted effective September 1, 2008.

Rule 4.90 Committee review of denied or modified petition

- (A) An applicant notified that a Petition For Testing Accommodations has been denied or granted with modifications may appeal the decision to the Committee. The appeal must be submitted within ten days of the date of the denial or modified grant or some other reasonable period established by the Committee.
- (B) Appeals filed in connection with a particular administration of an examination must be filed no later than the first business day of the month in which the examination is to be administered. Appeals received after that date will be considered in connection with future administration of the examination.
- (C) After reviewing the appeal and supporting documentation, the Senior Executive may withdraw the prior decision and grant the accommodations requested.
- (D) If the Senior Executive does not grant an appeal, the Committee must consider it as soon as practicable. The review must be based on the original petition and supporting documentation provided by the petitioner and the Senior Executive. Oral argument is not permitted. The review must be conducted in closed session either at a regular meeting or one specially convened by teleconference. If a subcommittee has been assigned to consider the appeal, the entire Committee must consider it upon the request of any member of the subcommittee.

Rule 4.90 adopted effective September 1, 2008.

Rule 4.91 Confidentiality of Petitions for Testing Accommodations

Petitions for Testing Accommodations, documentation submitted in support and evaluations of requests are confidential.

Rule 4.91 adopted effective September 1, 2008.

Rule 4.92 False or misleading information in Petition For Testing Accommodations

False or misleading information in a Petition For Testing Accommodations is considered in determining an applicant's moral character and may result in a negative determination of moral character.

Rule 4.92 adopted effective September 1, 2008.

TITLE 4. ADMISSION AND EDUCATIONAL STANDARDS

Adopted July 2007

DIVISION 3. UNACCREDITED LAW SCHOOL RULES

Chapter 1. General Provisions

Rule 4.200 Authority

The Committee of Bar Examiners ("the Committee") is authorized by law to register, oversee, and regulate unaccredited law schools in California.

Rule 4.200 adopted effective January 1, 2008.

Rule 4.201 What these rules are

- (A) A law school conducting business in California must register with the Committee and comply with these rules and other applicable law unless otherwise exempt.
- (B) These rules have been approved by the Committee and adopted by the Board of Trustees as part of the Rules of the State Bar of California and may be amended in accordance with State Bar rules.
- (C) These rules do not apply to law schools accredited by the Committee, law schools approved by the American Bar Association, paralegal programs, undergraduate legal degree programs, or other legal studies programs that do not lead to a professional degree in law. The appropriate legal entity must approve such programs, even if they are offered by an accredited, approved, or registered law school or an institution of which it is a part.

Rule 4.201 adopted effective January 1, 2008; amended effective January 1, 2012.

Rule 4.202 Interpreting and applying the rules

The Guidelines for Unaccredited Law School Rules, as adopted by the Committee of Bar Examiners, govern the interpretation and application of these rules.

Rule 4.202 adopted effective January 1, 2008.

Rule 4.203 Citation

These rules may be cited as Unaccredited Law School Rules.

Rule 4.203 adopted effective January 1, 2008.

Rule 4.204 Definitions

- (A) An “American Bar Association Approved Law School” is a law school fully or provisionally approved by the American Bar Association and deemed accredited by the Committee.
- (B) A “California accredited law school” is a law school that has complied with the Rules on Accreditation of Law Schools and has been accredited by the Committee.
- (C) “The Committee” is the Committee of Bar Examiners of the State Bar of California.
- (D) The “First-Year Law Students’ Examination” is the examination required by statute and by Title 4, Division 1 of the *Rules of the State Bar of California (Admissions Rules)*.¹
- (E) “Inspection” means an on-site visit to a law school by an individual or a team appointed by the Committee in accordance with these rules.
- (F) A “major change” is one of the changes specified in rule 4.246, Major changes.
- (G) A “professional law degree” is the LL.B. (Bachelor of Laws), M.L.S. (Master of Legal Studies), J.D. (Juris Doctor), LL.M. (Master of Laws), or other post-graduate degree authorized by the Committee. The J.D. degree may be granted only upon completion of a law program that qualifies a student to take the California Bar Examination.
- (H) A “registered law school” is an unaccredited California law school that meets the requirements of these rules and that has been registered by the Committee.
- (I) “Senior Executive” means “Senior Executive, Admissions” or that person’s designee.
- (J) An “unaccredited law school” is a correspondence, distance-learning, or fixed-facility law school operating in California that is not accredited by the Committee.
 - (1) A “correspondence law school” is a law school that conducts instruction principally by correspondence. A correspondence law school must require at least 864 hours of preparation and study per year for four years.
 - (2) A “distance-learning law school” is a law school that conducts instruction and provides interactive classes principally by technological means. A distance-learning law school must require at least 864 hours of preparation and study per year for four years.

¹ Business & Professions Code § 6060(h) and Chapter 5 of the *Admissions Rules*.

- (3) A “fixed-facility law school” is a law school that conducts its instruction principally in physical classroom facilities. A fixed-facility law school must require classroom attendance of its students for a minimum of 270 hours a year for four years.

Rule 4.204 adopted effective January 1, 2008.

Rule 4.205 Lists of law schools

The Committee maintains lists of law schools operating in California: those accredited by the Committee, those registered as unaccredited by the Committee, and those approved by the American Bar Association. The lists are available on the State Bar Web site and upon request.

Rule 4.205 adopted effective January 1, 2008.

Rule 4.206 Student complaints

The Committee does not intervene in disputes between a student and a law school. It retains complaints about a law school submitted by students and considers those complaints in assessing the law school’s compliance with these rules.

Rule 4.206 adopted effective January 1, 2008.

Rule 4.207 Public information

Release of information contained in the files of applicants for registration and registered law schools is subject to the requirements and limitations imposed by state law.

Rule 4.207 adopted effective January 1, 2008; amended effective November 18, 2016.

Rule 4.208 Waiver of requirements

- (A) A law school may request that the Committee waive any rule or guideline. The request must clearly show that the law school otherwise complies with the rules.
- (B) The Committee will allow a law school a reasonable time to comply with the rule or guideline for which it has granted a waiver, but a waiver is temporary. A request to renew a waiver must be filed with the Annual Compliance Report. The Committee may then renew, modify, or withdraw the waiver.

Rule 4.208 adopted effective January 1, 2008.

Rule 4.209 Fees

- (A) The regulatory and oversight services provided by the Committee are funded by reasonable fees that are set forth in the Unaccredited Law School Fees (Schedule of Charges and Deadlines).
- (B) Fees for the services of the Senior Executive or a consultant engaged by the Committee are based on an hourly rate that covers the cost of providing the service, inclusive of preparation and travel time.
- (C) Travel expenses are reimbursed at actual cost, in accordance with State Bar travel reimbursement policies.

Rule 4.209 adopted effective January 1, 2008.

Rule 4.210 Extensions of time

For good cause, the Committee may extend a time limit prescribed by these rules.

Rule 4.210 adopted effective January 1, 2008.

Chapter 2. Application for registration

Rule 4.220 Before applying to register

An educational institution planning to offer instruction in law may request that the Committee arrange a consultation visit to advise it on any matter, including whether the institution is ready to apply for registration or should make changes before doing so. The institution must agree to reimburse the Committee for the costs of a consultation visit, including those of travel.

Rule 4.220 adopted effective January 1, 2008.

Rule 4.221 Application procedure

A law school that meets the standards set forth in rule 4.240 may apply for registration by:

- (A) completing and submitting the Application for Registration using the form prescribed by the Committee with the fee set forth in the Unaccredited Law School Fees (Schedule of Charges and Deadlines); and
- (B) agreeing to allow the Committee to make any inspection it deems necessary and promptly pay all expenses of the inspection.

Rule 4.221 adopted effective January 1, 2008.

Rule 4.222 Multiple locations

If a fixed-facility law school has multiple locations that are more than ten miles apart by the most direct route, each location must apply for registration as a separate law school.

Rule 4.222 adopted effective January 1, 2008.

Rule 4.223 Committee action

After considering an application, the Committee may

- (A) notify the law school within thirty days of receiving the application that it has failed to establish a reasonable probability that the law school is in compliance with these rules and, for reasons stated in the notice, advise the law school to withdraw its application;
- (B) require an inspection of a law school that refuses to withdraw its application after the Committee has advised it to do so and schedule the inspection within sixty days of the date of its advice or the law school's refusal;
- (C) within sixty days of reviewing the application and any related inspection report and objections, register the law school for at least two years, subject to any conditions it deems appropriate, such as annual inspections at the law school's expense;
- (D) request further information, allowing a reasonable time for review; or
- (E) deny the application.

Rule 4.223 adopted effective January 1, 2008.

Chapter 3. Responsibilities of registered law schools

Rule 4.240 Standards

A registered law school must at all times meet the following standards.

- (A) **Lawful Operation.** The law school must operate in compliance with all applicable federal, state, and local laws and regulations.
- (B) **Integrity.** The law school must demonstrate integrity in all of its programs, operations, and other affairs.
- (C) **Governance.** The law school must be governed, organized, and administered so as to provide a sound educational program.

- (D) Dean and Faculty. The law school must have a competent dean or other administrative head and a competent faculty that devotes adequate time to administration, instruction, and student counseling.
- (E) Educational Program. The law school must maintain a sound program of legal education.
- (F) Competency Training. The law school must require that each student enrolled in its Juris Doctor Degree program satisfactorily complete a minimum of six semester units (or their equivalent) of course work designated to teach practice-based skills and competency training. Such competency training must teach and develop those skills needed by a licensed attorney to practice law in an ethical and competent manner.
- (G) Scholastic Standards. The law school must maintain sound scholastic standards and must as soon as possible identify and exclude those students who have demonstrated they are not qualified to continue.
- (H) Admissions. The law school must maintain a sound admissions policy. The law school must not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the degree program.
- (I) Library. The law school must maintain a library consistent with the minimum requirements set by the Committee.
- (J) Physical Resources. The law school must have physical resources and an infrastructure adequate for its programs and operations. The law school must, at a minimum, maintain its primary administrative office in the State of California.
- (K) Financial Resources. The law school must have adequate present and anticipated financial resources to support its programs and operations.
- (L) Records and Reports. The law school must maintain adequate records of its programs and operations.
- (M) Equal Opportunity and Non-Discrimination. Consistent with sound educational policy and these rules, the law school should demonstrate a commitment to providing equal opportunity to study law and in the hiring, retention and promotion of faculty without regard to sex, race, color, ancestry, religious creed, national origin, disability, medical condition, age, marital status, political affiliation, sexual orientation, or veteran status.
- (N) Compliance with Committee requirements. The law school must demonstrate its compliance with these rules by submitting the required annual reports and otherwise complying with the rules.

Rule 4.240 adopted effective January 1, 2008; Rule 4.240(F), adopted effective for all students newly enrolled in the first year on or after January 1, 2018.

Rule 4.241 Disclosure statement

- (A) A registered law school must provide each student, in the format required by the Committee, a disclosure statement that includes all the following information.
- (1) It is not accredited by the Committee.
 - (2) Whether it has applied for accreditation in the previous five years, and if so, the date of the application and whether the application is pending or has been withdrawn or denied.
 - (3) A statement of assets and liabilities. This requirement applies only if it has been in operation for fewer than ten years. The requirement does not apply if the law school is affiliated with or under the control of another school that has been in operation ten years or more.
 - (4) In the format required by the Committee, the pass rates of students who have taken the California First-Year Law Students' Examination and the California Bar Examination. This information must be provided for the past five years or since the establishment of the law school, whichever time is shorter.
 - (5) The number of legal volumes in the library. This requirement does not apply to correspondence or distance-learning law schools.
 - (6) The educational background, qualifications, and experience of the faculty and the names of any faculty or administrators who are ~~members~~ licensees of the State Bar of California or who are admitted in another jurisdiction.
 - (7) The ratio of faculty to students for the previous five years or since the establishment of the law school, whichever time is shorter.
 - (8) A statement that the education it provides may not satisfy the requirements of other jurisdictions for the practice of law and that applicants should contact the jurisdiction in which they may wish to practice for that jurisdiction's requirements.
 - (9) Whether it has been issued a Notice of Noncompliance by the Committee.
 - (10) In the format required by the Committee, the attrition rates of students who are enrolled in the school and do not matriculate into subsequent years of law study. This information must be provided for the past five years or since the establishment of the law school, whichever time is shorter.

- (B) The disclosure statement must be provided to
- (1) each new student upon payment of an application fee but before payment of a registration fee; and
 - (2) each returning student, prior to payment of any fee for an academic term.
- (C) The disclosure statement must be signed by the student, who must receive a copy of the signed statement.
- (D) Each year on the date indicated in the Unaccredited Law School Fees (Schedule of Charges and Deadlines), a law school must file at the Committee's San Francisco office
- (1) a copy of the disclosure statement the law school has provided or intends to provide in any academic term between July 1 of the current calendar year and June 30 of the following calendar year; and
 - (2) the Disclosure Statement Certification form prescribed by the Committee.
- (E) A law school that does not comply with this rule must refund all fees, including tuition, paid by a student who did not receive the disclosure statement. Non-compliance constitutes cause for withdrawal of registration.

Rule 4.241 adopted effective January 1, 2008; amended effective June 1, 2016.

Rule 4.242 Annual Compliance Report

A registered law school must submit an Annual Compliance Report using the form prescribed by the Committee. The report must acknowledge any noncompliance with these rules and describe the remedial steps being taken to address the noncompliance. The deadline and fee for submission of the report are set forth in the Unaccredited Law School Fees (Schedule of Charges and Deadlines).

Rule 4.242 adopted effective January 1, 2008.

Rule 4.243 Self-study

Prior to a periodic inspection, or more frequently if the Committee requests it, a registered law school must reevaluate its educational program and submit a written self-study to the Committee. The purpose of the self-study is to determine whether the law school is in compliance with these rules and has achieved its mission and objectives. The law school must use the format prescribed by the Committee and submit the required fee.

Rule 4.243 adopted effective January 1, 2008.

Rule 4.244 Inspections

- (A) A registered law school must be inspected every five years or more frequently if the Committee determines that an inspection is required to assess compliance with these rules.
- (B) A law school subject to inspection must
 - (1) facilitate the review of records, facilities inspection, observation of classes, and interviews with students, faculty, staff, administration, and board; and
 - (2) pay all expenses of the inspection.
- (C) For the inspection that is required every five years, the Committee will appoint an inspection team composed of
 - (1) the Senior Executive; and
 - (2) up to two additional members, who may be other State Bar staff, members of the Committee, educational consultants, or representatives from a registered law school.
- (D) Within ten days of receiving notice of an inspection, a law school has the right to challenge the appointment of an inspector and to request an alternative appointment. Grounds for a challenge are that an appointee is biased or has a financial interest in or is employed by a competing institution. An allegation of bias must be documented by written evidence. The Senior Executive will consider the challenge and may appoint an alternative member for good cause. The Senior Executive's decision will be issued within thirty days of receipt of the challenge.
- (E) A person or team appointed to make an inspection must provide the Committee with a written report of its findings and recommendations within sixty days of completing its inspection. Once it has received a report, the Committee must send the law school a copy of it within sixty days.
- (F) Within fifteen days of receiving an inspection report, the law school must notify the Committee that it accepts the report or objects to it in whole or in part. An objection must be supported by documentation.
- (G) Within sixty days of receiving an inspection report and any law school objections, the Committee will
 - (1) accept the report and register or continue the registration of the law school;

- (2) accept the report and permit the law school to proceed with its application for registration;
- (3) grant a waiver in accordance with these rules;
- (4) issue a warning requiring immediate action to correct specified deficiencies within a certain number of days of the date of the warning; or
- (5) initiate proceedings to deny or withdraw registration for failure to comply with a warning.

Rule 4.244 adopted effective January 1, 2008.

Rule 4.245 Prior approval of major changes

A registered law school contemplating a major change must notify the Committee and obtain its prior approval before making the change. The notice must explain in detail any effect the change might have on the law school's compliance with the rules and be submitted with the fees specified in the Unaccredited Law School Fees (Schedule of Charges and Deadlines). The Committee may then require submission of additional information or an inspection.

Rule 4.245 adopted effective January 1, 2008.

Rule 4.246 Major changes defined

The following are major changes:

- (A) instituting a new division;
- (B) changing the location of the law school's administrative office or the location of a branch, or opening a new branch;
- (C) instituting any joint degree program, whether within the college or university affiliated with the law school or another institution;
- (D) merging or affiliating with another law school, college, or university, or severance from a law school, college or university, or modifying the law school's relationship with an affiliated college or university;
- (E) offering a new program in law study, either a non-degree or non-professional degree program, or a degree program beyond the first professional degree in law;

- (F) providing law study credit for a fixed-facility law school program or class offered more than ten miles from the site of the law school, outside California, or in multiple locations;
- (G) changing the name of the law school;
- (H) changing from a nonprofit to a profit-making institution or vice versa; and
- (I) changing the ownership of the law school.

Rule 4.246 adopted effective January 1, 2008.

Chapter 4. Withdrawal of registration

Rule 4.260 Notice of Noncompliance

If the Committee believes that a registered law school is not in full compliance with these rules, the Committee will provide the law school with a written Notice of Noncompliance that states the reasons for its belief.

Rule 4.260 adopted effective January 1, 2008.

Rule 4.261 Response to Notice of Noncompliance

Within fifteen days of receiving a Notice of Noncompliance, a law school must file a response demonstrating that it is in compliance or is taking steps to achieve compliance. The response must be submitted with the fee set forth in the Unaccredited Law School Fees (Schedule of Charges and Deadlines).

Rule 4.261 adopted effective January 1, 2008.

Rule 4.262 Committee action on law school response

- (A) If the Committee deems the response satisfactory, it will notify the law school within thirty days.
- (B) If the Committee deems the response unsatisfactory, it must schedule an inspection within thirty days. Upon concluding the inspection, the inspection team must submit its report to the Committee within thirty days. The Committee will send a copy of the report to the law school.

Rule 4.262 adopted effective January 1, 2008.

Rule 4.263 Committee action on inspection report

If the Committee believes that the inspection report demonstrates that the law school is not or is not likely to be in compliance with these rules, the Committee will notify the law school that it recommends probation or withdrawal of registration.

Rule 4.263 adopted effective January 1, 2008.

Rule 4.264 Request for hearing

The law school may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration.

Rule 4.264 adopted effective January 1, 2008.

Rule 4.265 Hearing procedures

- (A) Within sixty days of receiving a timely request for hearing, the Committee will schedule a hearing at a time that is mutually agreeable to the Committee and the law school.
- (B) The hearing need not be conducted according to common law or statutory rules of evidence. Any relevant evidence is admissible if it is the kind of evidence on which responsible persons rely in the conduct of serious affairs. The rules of privilege in the California Evidence Code or required by the United States or California Constitutions will be followed. The law school has the burden of establishing its compliance with these rules.
- (C) All parties may be represented by counsel.

Rule 4.265 adopted effective January 1, 2008.

Rule 4.266 Committee action following hearing

- (A) Following a hearing, the Committee will determine whether the law school is in compliance with these rules. Its decision will be based on the entire record, including materials presented at the hearing.
- (B) The Committee may take any action affecting the law school's registration that it considers appropriate, including termination of registration.
- (C) The Committee, in its discretion, may do any or all of the following with respect to its decision:
 - (1) publish it;
 - (2) send it to the students enrolled in the law school;
 - (3) send it to the California Supreme Court;

- (4) send it to the California Attorney General.

Rule 4.266 adopted effective January 1, 2008.

Rule 4.267 Probation

- (A) If the Committee decides that a law school has not complied or taken adequate steps to comply with these rules but has made perceptible progress toward compliance, the Committee may place the law school on probation for a specified time.
- (B) The Committee may impose probation conditions, including interim inspections and progress reports.
- (C) During the probation, students will be deemed enrolled at a registered law school and the school's degree-granting authority will continue.
- (D) At least thirty days before the probation expires, the Committee will determine whether sufficient progress has been made toward compliance or whether it will proceed to withdraw the law school's registration. The Committee will notify the law school of its decision.

Rule 4.267 adopted effective January 1, 2008.

Rule 4.268 Termination of registration

The Committee will terminate a law school's registration on a specific date, at which time it will also terminate its degree-granting authority. Until that date, students attending the law school are deemed enrolled at a registered law school.

Rule 4.268 adopted effective January 1, 2008.

Rule 4.269 Review by Supreme Court

A law school whose registration has been terminated by the Committee may seek review of the Committee's action before the California Supreme Court pursuant to the rules of that court.

Rule 4.269 adopted effective January 1, 2008.

TITLE 6. GOVERNANCE

~~Adopted July 2007~~

~~DIVISION 2. MEETINGS~~

~~Chapter 2. Meetings of State Bar Committees~~

~~Rule 6.66. Repeal.~~

~~This chapter shall remain in effect only until April 1, 2016, and as of that date is repealed. Beginning April 1, 2016, meetings of entities appointed by the Board of Trustees will be subject to the Bagley-Keene Open Meeting Act, as required by Business and Professions Code section 6026.7, and Business and Professions Code section 6026.5.~~

~~Rule 6.66 adopted effective November 20, 2015.~~

TITLE 6. GOVERNANCE

~~Adopted July 2007~~

DIVISION 2. MEETINGS

Chapter 1. Meetings of the Board of Trustees

Rule 6.57. Repeal.

~~This chapter shall remain in effect only until April 1, 2016, and as of that date is repealed. Beginning April 1, 2016, meetings of the Board of Trustees and its committees will be subject to the Bagley-Keene Open Meeting Act, as required by Business and Professions Code section 6026.7, and Business and Professions Code section 6026.5.~~

~~Rule 6.57 adopted effective November 20, 2015.~~

TITLE 6. GOVERNANCE

Adopted July 2007

DIVISION 1. BOARD OF TRUSTEES

Chapter 1. — Election of Trustees

Rule 6.1 Election matters in general

- (A) — ~~Subject to the supervision and control of the board, the Secretary is responsible for administration and supervision of the election of attorney members of the board. These duties include~~
- ~~(1) — preparing and distributing election forms and ballots;~~
 - ~~(2) — preparing and distributing eligibility and voting lists;~~
 - ~~(3) — determining validity of nominations;~~
 - ~~(4) — counting ballots;~~
 - ~~(5) — appointing canvassing boards and recount committees; and~~
 - ~~(6) — maintaining custody and control of election materials.~~
- (B) — ~~A Nominating Petition, Candidate Statement, or any other form required by rule in this division must be completed in accordance with instructions and filed by the dates set forth in the Schedule of Charges and Deadlines.~~
- (C) — ~~A member's address as it appears in his or her member record will be considered the principal office for the practice of law in determining eligibility for candidacy and voting. If the address appearing on a candidate's member record is a postal or private mailbox, the candidate must also provide the Secretary with the street address of his or her principal office on or before the date set for filing of Nominating Petitions. A candidate must also certify on the Nominating Petition that his or her principal office for the practice of law is maintained in the district from which he or she is running.~~

Rule 6.1 adopted effective January 1, 2009; amended effective November 14, 2009.

Rule 6.2 Nomination of trustees

~~(A) — A qualified member¹ must petition for candidacy by filing a completed Nominating Petition². The Nominating Petition may be filed electronically. Candidates who file electronically must retain the original copy of the petition for four years and produce it to the State Bar upon request.~~

~~(B) — The Secretary may extend the deadline for filing a Nominating Petition up to ten working days if~~

~~(1) — no valid Nominating Petition has been filed;~~

~~(2) — the only valid Nominating Petition filed is withdrawn before the deadline in the Schedule of Charges and Deadlines; or~~

~~(3) — only one candidate has filed a valid Nominating Petition and has died or become ineligible.~~

~~Rule 6.2 adopted effective January 1, 2009; amended effective January 1, 2012.~~

~~Rule 6.3 Candidate information~~

~~(A) — The State Bar will post on its Web site and include in the ballot package mailed to eligible voters biographic information about qualified candidates including education, date admitted to practice, any public record of discipline, and other information in the official membership license records of the State Bar.~~

~~(B) — Candidates may file a Candidate Statement that describes their views and qualifications for office.~~

~~(C) — A candidate for the Board of Trustees must disclose his or her membership in a club that discriminates in its membership policies on the basis of race, color, creed, national ancestry, sex, or sexual preference, but is not required to disclose the name of the particular club.~~

~~Rule 6.3 adopted effective January 1, 2009; amended effective January 1, 2012.~~

~~Rule 6.4 Ballots~~

~~(A) — The ballot, any Candidate Statement, and a return envelope must be mailed to the address of record of eligible members licensees at least six weeks before the date specified in the Schedule of Charges and Deadlines.~~

~~(B) — To be counted, a ballot must be returned in the envelope provided by the State Bar and received in the manner and time designated in the Schedule of Charges~~

¹ ~~Bus. & Prof. Code §§ 6013.2, 6015.~~

² ~~Bus. & Prof. Code § 6018.~~

~~and Deadlines. The outside of the return envelope must include the voting member's printed name and address and must be signed by the member. Alternatively, the Secretary may provide for electronic voting using a secure means that complies with the requirements of these rules.~~

~~Rule 6.4 adopted effective January 1, 2009.~~

~~Rule 6.5 Plurality of votes; tie votes~~

~~Votes will be counted as prescribed by law.³ The candidate who receives a plurality of the votes cast for an office will be elected a trustee of the State Bar. In the event of a tie, the election will be determined by lot. The affected candidates must be notified and may attend the drawing of the lot.~~

~~Rule 6.5 adopted effective January 1, 2009; amended effective January 1, 2012.~~

~~Rule 6.6 Recounts~~

~~(A) No later than five days after certification of election results, a candidate may request a recount. The request must be in the manner prescribed by the Secretary and include advance payment of reasonable fees for the cost of the recount. Members of the State Bar may attend a recount, subject to reasonable conditions imposed by the Secretary.~~

~~(B) As soon as practicable, the Secretary must appoint a recount committee consisting of five active members who did not initially count ballots. The recount committee must~~

~~(1) recount the ballots;~~

~~(2) examine the ballots not counted;~~

~~(3) determine the number of votes validly cast for each candidate in the election; and~~

~~(4) immediately report the results, which will be final, to the Secretary.~~

~~Rule 6.6 adopted effective January 1, 2009.~~

~~Rule 6.7 Appointment due to a vacancy~~

~~(A) A vacancy on the board occurs when a board member dies, resigns, or ceases to be an active member of the State Bar. The board must fill a vacancy by appointment unless these rules provide otherwise.~~

³ ~~Bus. & Prof. Code § 6019.~~

~~(B) — If a winning candidate dies or becomes ineligible or unable to serve before taking office, the office must go to the candidate receiving the next-highest number of votes for that office. If there is no other candidate, the board must appoint a member to fill the vacancy until the next regularly scheduled election.~~

~~Rule 6.7 adopted effective January 1, 2009.~~

~~Rule 6.8 Special election due to a vacancy~~

~~(A) — If a vacancy leaves an unexpired term exceeding eighteen months, a special election must be held to fill the balance of the term. This special election must be held in conjunction with the next regularly scheduled Board of Trustees election.~~

~~(B) — The rules and procedures applicable to a regular election apply to a special election.~~

~~Rule 6.8 adopted effective January 1, 2009; amended effective January 1, 2012.~~

TITLE 6. GOVERNANCE

Adopted July 2007

DIVISION 1. BOARD OF TRUSTEES

Chapter 2. General authority of the board

Rule 6.20 Delegations, supervision, and control

All State Bar officers, agents, committees, commissions, and other entities have only the powers, duties, and authority delegated by the board and are subject to its supervision and control. Notwithstanding any delegation, the board reserves authority over all matters pertaining to the State Bar,¹ including whether actions or positions taken by a State Bar officer, agent, committee, commission, or other entity are consistent with State Bar policies.

Rule 6.20 adopted effective May 16, 2008.

Rule 6.21 Public communications

Unless expressly authorized by the board or the Rules of the State Bar, a State Bar officer, agent, committee, commission, or other entity must not

- (A) act, or purport to act, speak or purport to speak for the State Bar;
- (B) make any public communication on behalf of the State Bar; or
- (C) circularize, poll, or put to the vote of all or a substantial number of ~~members~~ licensees of the State Bar any matter on which the State Bar has acted or is empowered to act.

Rule 6.21 adopted effective May 16, 2008.

¹ Bus. & Prof. Code, §§ 6010, 6025 and 6030.

TITLE 6. GOVERNANCE

Adopted July 2007

DIVISION 1. BOARD OF TRUSTEES

Chapter 3. State Bar Districts

Rule 6.30 Composition

~~A qualified member of the State Bar may elect one attorney member of the board from his or her district.~~

- ~~(A) District 1 is the counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano, and Sonoma.~~
- ~~(B) District 2 is the counties Los Angeles, San Luis Obispo, Santa Barbara and Ventura.~~
- ~~(C) District 3 is the counties of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo and Yuba.~~
- ~~(D) District 4 is the counties of Imperial, Inyo, Orange, Riverside, San Bernardino, and San Diego.~~
- ~~(E) District 5 is the counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne.~~
- ~~(F) District 6 is the counties of Monterey, San Benito, Santa Clara, and Santa Cruz.~~

~~Rule 6.30 adopted effective May 16, 2008; amended effective July 1, 2010; amended effective January 1, 2012.~~

Rule 6.31 Sequence of election of attorney members

~~The six attorney members of the board are elected as follows:~~

- ~~(A) In 2012 and every three years thereafter, one member each from State Bar Districts 4 and 5.~~
- ~~(B) In 2013 and every three years thereafter, one member each from State Bar Districts 1 and 3.~~
- ~~(C) In 2014 and every three years thereafter, one member each from State Bar Districts 2 and 6.~~

~~Formerly Rule 6.32, adopted effective July 1, 2010; repealed November 4, 2011; renumbered as Rule 6.31 December 21, 2011 and adopted effective January 1, 2012.~~

TITLE 6. GOVERNANCE

Adopted July 2007

DIVISION 3. ACCESS TO STATE BAR RECORDS

Rule 6.70 Intent, Application, Definitions and Construction

(A) Intent.

- (1) The Board of Trustees intends by this division to provide public access to the State Bar's nondeliberative and nonadjudicative records, budget and management information.
- (2) These rules clarify the public's right of access to State Bar records and must be broadly construed to further the public's right of access as provided in California Constitution, article 1, section 3, subdivision (b).

(B) Application.

- (1) These rules apply to public access to State Bar administrative records, including records of budget and management information.
- (2) These rules do not apply to, modify or otherwise affect existing law regarding public access to adjudicative records.
- (3) These rules do not restrict the rights to disclosure of information otherwise granted by law to a recognized employee organization.
- (4) These rules do not affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of California, nor do they limit or impair any rights of discovery in a criminal case.
- (5) These rules do not apply to electronic mail and text messages sent or received before January 1, 2016, the effective date of these rules.

(C) Definitions.

As used in these rules:

- (1) "Adjudicative record" means any writing prepared for or filed or used in a court proceeding, the judicial deliberation process, or the assignment or reassignment of cases and of judges and judge pro tempore of the State Bar Court, or of counsel appointed or employed by the State Bar Court.
- (2) "Administrative record" means any writing containing information relating to the conduct of the people's business that is prepared, owned, used, or

retained by the State Bar regardless of the writing's physical form or characteristics, except an adjudicative record. The term "administrative record" does not include records of a personal nature that are not used in or do not relate to the people's business, such as personal notes, memoranda, electronic mail, calendar entries, and records of Internet use.

- (3) "Person" means any natural person, corporation, partnership, limited liability company, firm or association.
- (4) "Writing" means any handwriting, typewriting, printing, photographing, photocopying, electronic mail, fax, and every other means of recording on any tangible thing any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations, regardless of the manner in which the record has been stored.

(D) Construction.

- (1) Unless otherwise indicated, the terms used in these rules have the same meanings as under the Legislative Open Records Act (Gov. Code, § 9070 et seq.), the California Public Records Act (Gov. Code, § 6250 et seq.), and the Judicial Council's rule on public access to judicial administrative records (Cal. Rules of Court, rule 10.500) and must be interpreted consistently with the interpretation applied to the terms under those acts. To the extent a term is defined differently under those laws, the definition which is most protective of the public's right to access to government information shall control construction of these rules.
- (2) These rules do not require the disclosure of a record if the record is exempt from disclosure under these rules or is the type of record that would not be subject to disclosure under the Legislative Open Records Act, the California Public Records Act, or California Rule of Court 10.500, except that a record subject to disclosure under any of these laws shall be disclosable under these rules even if disclosure would be prohibited, or non-disclosure authorized, under another of these laws.

Rule 6.70 adopted effective January 1, 2016.

Rule 6.71 Public Access

(A) Access.

- (1) The State Bar must allow inspection and copying of administrative records unless the records are exempt from disclosure under these rules or by law.
- (2) Nothing in these rules requires the State Bar to create any record or to compile or assemble data in response to a request for administrative

records if the State Bar does not compile or assemble the data in the requested form for its own use or for provision to other agencies. For purposes of these rules, selecting data without alteration from extractable fields in a single database using software already owned or licensed by the State Bar does not constitute creating a record or compiling or assembling data.

- (3) If an administrative record contains information that is exempt from disclosure and the exempt portions are reasonably segregable, the State Bar must allow inspection and copying of the record after redaction of the portions that are exempt from disclosure. The State Bar is not required to allow inspection or copying of the portion of a writing that is an administrative record unless that portion is reasonably segregable from the portion that constitutes an adjudicative record.

(B) Examples.

Administrative records subject to inspection and copying unless exempt from disclosure under Rule 6.72 include, but are not limited to, the following:

- (1) Any budget, record of revenue received, and expenditure document pertaining to the State Bar, including quarterly financial statements and statements of revenue, expenditure, and reserves.
- (2) Actual and budgeted employee salary and benefit information.
- (3) Copies of executed contracts with outside vendors and payment information and policies concerning goods and services provided by outside vendors without an executed contract, provided that competing proposals for a contract with the State Bar need not be disclosed until a contract is awarded or the Bar determines to reject all proposals.
- (4) Final audit reports.
- (5) Employment contracts between the State Bar and its employees.

(C) Procedure for requesting records.

The State Bar must make available on its public Web site or otherwise publicize the procedure to be followed to request a copy of or to inspect an administrative record. At a minimum, the procedure must include the address to which requests are to be addressed, to whom requests are to be directed, and the office hours of the State Bar office to which such requests may be directed.

(D) Costs of duplication, search and review.

- (1) The State Bar, on request, must provide a copy of an administrative record not exempt from disclosure if the record is of a nature permitting copying, subject to payment of the fee specified in these rules or other applicable statutory fee. The State Bar may require advance payment of any fee.
- (2) The State Bar may impose on all requests a fee reasonably calculated to cover the State Bar's direct costs of duplication of a record or of production of a record in an electronic form under Rule 6.71(D)(2)(a) below. The fee includes:
 - (a) A charge per page, per copy, or otherwise, as established in the Schedule of Charges and Deadlines, representing the direct costs of equipment, supplies, and staff time required to duplicate or produce (but not to identify or locate) the requested record.
 - (b) Any other direct costs of duplication or production, including, but not limited to, third-party costs incurred by the State Bar in retrieving the record from a remote storage facility or archive and the postage or similar costs of delivering responsive records.

(E) Inspection.

The State Bar must make its administrative records that are not exempt from disclosure open to inspection at all times during its office hours. The State Bar may make records available on-line via its website or otherwise and, if it does so, shall have no obligation to provide physical copies to those who request such records.

(F) Time for determination of disclosable records.

The State Bar, on a request that reasonably describes an identifiable record or records, must determine, within 10 calendar days from receipt of the request, whether the request, in whole or in part, seeks disclosable administrative records and must promptly notify the requesting party of the determination and the reasons for the determination.

(G) Response.

If the State Bar determines that a request seeks disclosable administrative records, the State Bar must make the disclosable administrative records available promptly. The State Bar must include with the notice of the determination the estimated date and time when the records will be made available. If the State Bar determines that the request, in whole or in part, seeks

nondisclosable administrative records, it must convey its determination in writing, include a contact name and telephone number to which inquiries may be directed, and state the express provision of these rules or other law justifying the withholding of the records not disclosed.

(H) Extension of time for determination of disclosable records.

In unusual circumstances, to the extent reasonably necessary to the proper processing of the particular request, the State Bar may extend the time limit prescribed for its determination under Rule 6.71(F) by no more than 14 calendar days by written notice to the requesting party, stating the reasons for the extension and the date on which the State Bar expects to make a determination. As used in this section, “unusual circumstances” means the following:

- (1) The need to search for and collect the requested records from multiple locations or facilities;
- (2) The need to search for, collect, and appropriately examine a voluminous amount of records that are included in a single request; or
- (3) The need for consultation, which must be conducted with all practicable speed, with another judicial branch entity or other governmental agency having substantial subject matter interest in the determination of the request.

(I) Reasonable Efforts.

- (1) On receipt of a request to inspect or obtain a copy of an administrative record, the State Bar, to assist the requester in making a focused and effective request that reasonably describes an identifiable administrative record, must do all of the following to the extent reasonable under the circumstances:
 - (a) Assist the requester in identifying records and information responsive to the request or to the purpose of the request, if stated;
 - (b) Describe the information technology and physical location in which the records exist; and
 - (c) Provide suggestions for overcoming any practical basis for denying inspection or copying of the records or information sought.
- (2) The requirements of Rule 6.71(I)(1) will be deemed to have been satisfied if the State Bar is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that helps identify the record or records.

- (3) The requirements of Rule 6.71(l)(1) do not apply to a request for administrative records if the State Bar makes the requested records available or determines that the requested records are exempt from disclosure under these rules.

- (J) No obstruction or delay.

Nothing in these rules may be construed to permit the State Bar to delay or obstruct the inspection or copying of administrative records that are not exempt from disclosure.

- (K) Greater access permitted.

Except as otherwise prohibited by law, the State Bar may adopt requirements for itself that allow for faster, more efficient, or greater access to administrative records than prescribed by the requirements of these rules.

- (L) Control of Records.

The State Bar must not sell, exchange, furnish, or otherwise provide an administrative record subject to disclosure under these rules to a private entity in a manner that prevents the State Bar from providing the record directly under these rules. The State Bar must not allow a private entity to control the disclosure of information that is otherwise subject to disclosure under these rules.

Rule 6.71 adopted effective January 1, 2016.

Rule 6.72 Exemptions

Nothing in these rules requires the disclosure of administrative records that are any of the following:

- (A) Preliminary writings, including drafts, notes, working papers, and inter-agency or intra-agency memoranda, that are not retained by the State Bar in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure;
- (B) Records pertaining to pending or anticipated claims or litigation to which the State Bar is a party or State Bar personnel or officers are parties, until the pending litigation or claim has been finally adjudicated or otherwise resolved;
- (C) Personnel, medical, or similar files, or other personal information the disclosure of which would constitute an unwarranted invasion of personal privacy, including, but not limited to, records revealing home addresses, home telephone numbers, cellular telephone numbers, private electronic mail addresses, and social security

numbers of State Bar personnel or officers; and work electronic mail addresses and work telephone numbers of State Bar Court judges (including temporary and assigned judges), subordinate judicial officers, and their staff attorneys;

- (D) Test questions, scoring keys, and other examination materials or data used to develop, administer, and score examinations for employment, certification, licensure, or qualification;
- (E) Investigatory or security files compiled by the State Bar for employment, certification, licensing, or qualification purposes;
- (F) Examination records for employment, certification, licensure, or qualification, including scores, whether an exam was failed, and how many times an examination was taken;
- (G) Records whose disclosure is exempted or prohibited under state or federal law, including, without limitation, provisions of the California Evidence Code relating to privilege, the California Business and Professions Code, the California Rules of Court, by court order in any court proceeding, or by the State Bar Rules or the State Bar Rules of Procedure;
- (H) Records the disclosure of which would compromise the security of the public, the State Bar or the safety of State Bar personnel or officers, including but not limited to, security plans, and security surveys, investigations, procedures, and assessments;
- | (I) Records related to ~~member~~licensee information where the ~~member~~licensee has opted to limit disclosure pursuant to Business and Professions Code section 6001, subdivision (g);
- | (J) Personal, medical, or financial information submitted by State Bar ~~members~~licensees, applicants for ~~membership in~~licensure with the State Bar, entities regulated by the State Bar, or members of the public, the disclosure of which would constitute an unwarranted invasion of personal privacy;
- (K) Records related to evaluations of, complaints regarding, or investigations of State Bar Court judges (including temporary and assigned judges), subordinate judicial officers, and applicants or candidates for judicial office;
- (L) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the State Bar related to the lease, acquisition or sale of property or to prospective public supply and construction contracts, until all of the property has been leased, acquired or sold, or the relevant contracts have been executed, or all proposals or projects to which those records pertain have been permanently rejected. This provision does not affect the law of eminent domain;

- (M) Records related to activities governed by Government Code sections 3500 et seq. that reveal deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy or that provide instruction, advice, or training to employees who are not represented by employee organizations under those sections. Nothing in this subdivision limits the disclosure duties of the State Bar with respect to any other records relating to the activities governed by the employee relations acts referred to in these rules;
- (N) Records that reveal the identity of callers or issues raised by particular callers to the State Bar's Ethics Hotline;
- (O) Records that reveal the identity of or issues raised by persons requesting an ethics opinion from the State Bar's Committee on Professional Responsibility and Conduct as well as draft opinions, notes, deliberations, and correspondence relating to the development of ethics opinions;
- (P) Records that reveal the identity of or issues raised by persons calling the State Bar's lawyer referral hotline;
- (Q) Records that contain trade secrets or privileged or confidential commercial and financial information submitted in response to the State Bar's solicitation for goods or services or in the course of the State Bar's contractual relationship with a commercial entity. For purposes of these rules:
 - (1) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
 - (a) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
 - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy;
 - (2) "Privileged information" means material that falls within recognized constitutional, statutory, or common law privileges;
 - (3) "Confidential commercial and financial information" means information whose disclosure would:
 - (a) Impair the State Bar's ability to obtain necessary information in the future; or

- (b) Cause substantial harm to the competitive position of the person from whom the information was obtained.
- (R) Records whose disclosure would disclose the State Bar's or State Bar personnel's or officers' decision-making process, provided that, on the facts of the specific request for records, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure of the record; or
- (S) If, on the facts of the specific request for records, the public interest served by nondisclosure of the record clearly outweighs the public interest served by disclosure of the record.

Rule 6.72 adopted effective January 1, 2016.

Rule 6.73 Computer software, copyrighted materials

- (A) Computer software developed by the State Bar or used by the State Bar for the storage or manipulation of data is not an administrative record under these rules. For purposes of these rules "computer software" includes computer mapping systems, computer graphic systems, and computer programs, including the source, object, and other code in a computer program.
- (B) This rule does not limit the State Bar's ability to sell, lease, or license computer software for commercial or noncommercial use.
- (C) This rule does not create an implied warranty on the part of the State Bar for errors, omissions, or other defects in any computer software.
- (D) This rule does not limit any copyright protection. The State Bar is not required to duplicate records under this rule in violation of any copyright.
- (E) Nothing in this rule is intended to affect the administrative record status of information merely because the information is stored in a computer. Administrative records stored in a computer will be disclosed as required in these rules.

Rule 6.73 adopted effective January 1, 2016.

Rule 6.74 Waiver of exemptions

- (A) Disclosure by a State Bar entity or State Bar personnel or officer, acting with authority and within the scope of his, her or its office or employment, of an administrative record that is exempt from disclosure under these rules or other provision of law constitutes a waiver of the exemptions applicable to that particular record.

- (B) This rule does not apply to disclosures:
- (1) Made through discovery proceedings;
 - (2) Made through other legal proceedings or as otherwise required by law, including, without limitation, the California Rules of Court, or the State Bar Rules;
 - (3) Made to another judicial branch entity or judicial branch personnel for the purposes of judicial branch administration;
 - (4) Within the scope of a statute that limits disclosure of specified writings to certain persons or for certain purposes;
 - (5) Made to any governmental agency, judicial branch entity or judicial branch personnel, other licensing or testing entity, or law school, if the material is provided with the understanding that the recipient will maintain its confidentiality; or
 - (6) Of information about an individual not otherwise subject to disclosure disclosed to a third party with the express written permission of the individual to which it pertains.

Rule 6.74 adopted effective January 1, 2016.

Rule 6.75 Availability in electronic format

- (A) If the State Bar has information that constitutes an identifiable administrative record not exempt from disclosure under these rules and that is in an electronic format, the State Bar must, on request, produce that information in the electronic format requested, provided that:
- (1) No law prohibits disclosure or authorizes non-disclosure;
 - (2) The record already exists in the requested electronic format, or the State Bar has previously produced the administrative record in the requested format for its own use or for provision to other agencies; and
 - (3) The disclosure does not jeopardize or compromise the security or integrity of the original record or the electronic system on which the original record is maintained.
- (B) In addition to other fees imposed under these rules, the requester will bear the direct cost of producing a record if:

- (1) In order to comply with (A), the State Bar would be required to produce a record and the record is one that is produced only at otherwise regularly scheduled intervals; or
 - (2) Producing the requested record would require data compilation or extraction or any associated programming that the State Bar is not required to perform under these rules but has agreed to perform in response to the request.
- (C) Nothing in this subdivision shall be construed to require the State Bar to reconstruct a record in an electronic format if the State Bar no longer has the record available in an electronic format.

Rule 6.75 adopted effective January 1, 2016.

Rule 6.76 Public Access Disputes

Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any administrative record under these rules.

Rule 6.76 adopted effective January 1, 2016.

TITLE 6. GOVERNANCE

ARTICLE IX. REFERENDUM TO ~~ENTIRE MEMBERSHIP~~ ALL LICENSEES

~~Article IX. Referendum to the Entire Membership~~

Section 1. Referendum

The Board of ~~Governors~~ Trustees may order any question, whether or not action thereon has been taken at the annual meeting, referred to a vote ~~of the entire membership~~ by all licensees of the State Bar. Those present at the annual meeting may, by a two-thirds vote, direct the Board of ~~Governors~~ Trustees to take a referendum upon any matter presented or acted upon at such meeting. Whenever the Board of Trustees ~~Governors~~ is directed to take a referendum or whenever the board directs any question referred to a vote ~~of the entire membership~~ by all licensees of the State Bar, the secretary shall prepare a questionnaire containing the matters upon which such vote is to be taken, and such questionnaire shall be submitted by the secretary to each ~~member~~ licensee in such form that each ~~member~~ licensee can vote thereon and return the same to the secretary.

TITLE 6. GOVERNANCE

ARTICLE V. MEETINGS OF THE STATE BAR

~~Article V. Meetings of the State Bar~~

Section 1. Annual Meetings

The Annual Meeting of the State Bar shall be held between May 1st and December 1st of each year, at any place within the State of California, the exact date and place to be determined by the Board of ~~Governors~~Trustees, made at least 60 days prior to the date of such annual meetings; provided, however, that during war or other national emergency the determination of the exact date and place of the annual meeting may be made by the board at any time which is at least 20 days prior to the date of such annual meeting.

Section 2. Notice of Annual Meeting

Notice of the annual meeting shall state the time and place for the holding of such meeting, and shall be given the ~~members~~licensees of the State Bar by publication thereof in the official publication of the State Bar at least thirty days prior to such meeting; provided, however, that during war or other national emergency such notice may be given by publication at least 15 days prior to such meeting.

Section 3. Special Meetings

- (A) Special meetings of the State Bar may be called by the secretary as follows:
- (1) Upon a majority vote of the Board of ~~Governors~~Trustees present at any meeting of said board;
 - (2) Upon written request of eight members of the Board of ~~Governors~~Trustees;
 - (3) Upon written request of five hundred active ~~members~~licensees of the State Bar.
- (B) If the secretary shall not act upon such request within five days after receipt of the same, the special meeting may be called by any active ~~member~~licensee of the State Bar designated by eight members of the Board of ~~Governors~~Trustees or by five hundred active ~~members~~licensees of the State Bar making request therefor.

- (C) Special meetings may consider only such matters as are set forth in the call of the meeting; provided, however, that the Board of ~~Governors~~ Trustees may call special meetings of the State Bar to consider generally all or any legislation to be introduced or pending before the Legislature, or awaiting executive approval.

Section 4. Notice of Special Meeting

Notice of a special meeting shall state the time and place of the holding of such meeting, and shall be given to the ~~members~~ licensees of the State Bar either by mail or by publication thereof in the official publication of the State Bar at least five days prior to such meeting. Said notice shall state generally the matters to be considered at the special meeting and shall be signed by the secretary, or in case of his or her failure to act by the person designated as provided for in section 3, of this article.

Section 5. Quorum

Two hundred active ~~members~~ licensees of the State Bar shall constitute a quorum at any annual or special meeting of the State Bar; provided, however, that twenty active ~~members~~ licensees of the State Bar shall constitute a quorum at any annual meeting held during war or other national emergency if the Board of ~~Governors~~ Trustees shall determine prior to such annual meeting that conditions are such that only twenty active ~~members~~ licensees should be required for a quorum.

Section 6. Annual Program

The Board of ~~Governors~~ Trustees shall provide a suitable program for each Annual Meeting of the State Bar.

Section 7. Action at Annual Meeting

The reports of such committees of the State Bar, as may be submitted by the Board of ~~Trustees~~ Governors, and all matters of interest pertaining to the administration of justice may be considered, debated, and acted upon at the annual meeting; provided, however that, except as to matters submitted by the Board of ~~Trustees~~ Governors and reports of officers of the State Bar and courtesy resolutions of thanks and appreciation, or unless otherwise ordered by the board, no matter shall be considered, debated or acted upon unless a proposed resolution embodying the same has been filed with the Secretary of the State Bar at least 60 days before the date set for the opening of the meeting. Resolutions shall be in substantially the following form: "Resolved that ~~members~~ licensees of the State Bar of California in the (year) Annual Meeting assembled recommended to (or advise) the Board of ~~Trustees~~ Governors that"

Resolutions not filed in such form shall be revised by the secretary to conform to this rule or promptly returned by him or her to the person filing the same with a statement for the reason of the return. Notice of resolutions filed for consideration at the annual meeting shall be published by the secretary in the official publication of the State Bar not later than the last issue immediately preceding the month in which the annual meeting shall be held and the secretary shall have copies of the resolutions available at the time and place of the annual meeting for ~~members~~ licensees in attendance.

Section 8. Parliamentary Rules

Proceedings at any meeting of the State Bar shall be governed by "Roberts' Rules of Order, Revised." Unless otherwise permitted by a majority affirmative vote, discussion from the floor upon any proposition at any business session of the annual meeting or at any special meeting of the State Bar shall be limited as follows:

- (A) The proponent may have not to exceed five minutes to open and not to exceed five minutes to close his or her argument.
- (B) Any other speaker may have not to exceed five minutes, no speaker, other than the proponent, shall speak more than once, and the proponent shall not speak more than twice.

TITLE 7. MISCELLANEOUS PROVISIONS

Adopted July 2007

DIVISION 1. COMMISSION ON JUDICIAL NOMINEES EVALUATION

Chapter 1. General provisions

Rule 7.1 Commission on Judicial Nominees Evaluation

The Board of Trustees of the State Bar of California has established a Commission on Judicial Nominees Evaluation ("commission") pursuant to statute¹ to confidentially investigate and evaluate the judicial qualifications of those identified by the Governor for appointment or nomination to a judicial office.

Rule 7.1 adopted effective July 17, 2009; amended effective January 1, 2012.

Rule 7.2 Membership and terms

The commission, its chair, and its vice-chair are appointed by the Board of Trustees and serve at the pleasure of the Board. To the extent feasible,

- (A) the commission is to consist of at least twenty-seven and no more than thirty-eight members, at least eighty percent of whom must be active ~~members~~ [licensees](#) in good standing of the State Bar and the balance public members;
- (B) one of the State Bar ~~members~~ [licensees](#) is to be a former judge, preferably of an appellate court; and
- (C) the membership is to consist of a variety of persons of different backgrounds, abilities, interests, and opinions who are broadly representative of the ethnic, sexual, and racial diversity of the population of California.²

Rule 7.2 adopted effective July 17, 2009; amended effective January 1, 2012.

Rule 7.3 Temporary commissioners

- (A) The chair may appoint a former member of the commission as a temporary commissioner to assist the commission with its workload. An appointee must recently have been commission chair or served three full terms on the commission or its review committee. A temporary commissioner may lead an investigation.

¹ Government Code § 12011.5.

² See Government Code §§ 11140, 11141, and 12011.5.

- (B) A temporary commissioner may participate only in the consideration of and vote on the candidate the chair has assigned the commissioner to investigate.

Rule 7.3 adopted effective July 17, 2009.

Rule 7.4 Removal of commissioners

The Board may remove from office any commissioner whom the commission chair has identified in a report to the President of the Board as failing to perform assigned duties or regularly attend scheduled meetings.

Rule 7.4 adopted effective July 17, 2009.

Rule 7.5 Duties of commissioners

Each commissioner must

- (A) not endorse or participate in a judicial candidate's campaign for office;
- (B) not vote on a candidate if absent for any time from the meeting at which the commission votes on the candidate;
- (C) not participate in any other judicial evaluation process;
- (D) not apply for or accept a State of California judicial appointment or permit his or her name to be submitted for evaluation as a candidate for such an appointment while a majority of the commission consists of members with whom he or she has served;
- (E) report to the chair or vice-chair of the commission for appropriate action any concern that a fellow commissioner has breached these rules or law applicable to the commission; and
- (F) comply with these rules after signing a declaration that he or she has read, understood, and agrees to comply with the rules, the declaration being made under oath upon taking office and then annually.

Rule 7.5 adopted effective July 17, 2009.

Rule 7.6 Time limit changes

For good cause and with the consent of a candidate for judicial office, unless otherwise provided by law, a time limit prescribed by these rules may be changed.

Rule 7.6 adopted effective July 17, 2009.

Rule 7.7 Information on candidates

- (A) To evaluate the judicial qualifications of a candidate for a judicial office, each commissioner must consider the following information:
 - (1) a current Application for Appointment provided by or to the Governor's office;
 - (2) any past application materials and commission evaluations that have not been deemed unreliable by a Review Committee; and
 - (3) past State Bar complaints against and discipline imposed on a candidate, except for complaints based on allegations that the commission deems unfounded.
- (B) The commission may also consider information regarding candidates solicited from local or statewide bar associations that may have knowledge of the candidate through their own judicial evaluation procedures.

Rule 7.7 adopted effective July 17, 2009.

Rule 7.8 Commission records

- (A) Upon completion of his or her service or term, a commissioner must forward to the State Bar for retention for two years any completed Confidential Comment Forms and other records related to a commission investigation or activity. Copies of records stored electronically must be transferred to the State Bar and deleted from any electronic device not issued by the State Bar. After two years, all the forms and other documents related to an investigation or activity must be destroyed, unless the Board of Trustees, its President, or the chair instructs otherwise.
- (B) Records related to a Review Committee decision must be destroyed three years after the decision.

Rule 7.8 adopted effective July 17, 2009; amended effective September 2, 2010; amended effective January 1, 2012.

Chapter 2. Standards

Rule 7.20 Confidentiality required

- (A) Except as permitted by law³ or these rules, commission investigations, opinions expressed to the commission by raters or others with regard to a candidate's qualifications, interviews with candidates or others, meetings, the vote or comments of any individual commissioner or the vote of the commission as a

³ Government Code § 12011.5.

whole, and all other commission activities and records are absolutely confidential. Disclosure is prohibited even of the name of a candidate or the fact that the commission is considering a candidate.

- (B) To ensure the integrity and confidentiality of the commission's activities and records, the Board of Trustees and its members are not permitted to receive copies of commission records or inspect its records except as authorized by law or these rules.
- (C) This rule applies to the Board of Trustees, commissioners, and employees and agents of the State Bar but not to candidates.

Rule 7.20 adopted effective July 17, 2009; amended effective January 1, 2012.

Rule 7.21 Confidentiality exclusions

None of the following constitutes a breach of confidentiality under these rules:

- (A) confidential inquiries made in the course of investigations;
- (B) information commissioners share or discuss to discharge their responsibilities under these rules, such as information about interviews with raters, Confidential Comment Forms, comments of individual commissioners, and votes;
- (C) information required by the review committee appointed to review commission ratings of not qualified;⁴
- (D) information required to investigate and determine a claim of breach of confidentiality;⁵
- (E) attendance at commission meetings or inspection of commission records at the offices of the State Bar by members of the Board of Trustees;
- (F) information that the chair authorizes individual commissioners to provide to members of the Board of Trustees;
- (G) presentations or recommendations, supported with reasons, made by the chair or the chair's designee to the Commission on Judicial Appointments;⁶
- (H) public disclosure as permitted by law of a not qualified rating of a candidate the Governor has appointed to a trial court;⁷

⁴ Rule 7.66.

⁵ Rule 7.22.

⁶ Government Code § 12011.5(h).

⁷ Government Code § 12011.5(g).

- (I) disclosure by the chair or staff to a candidate of a not qualified rating; and
- (J) any discussion regarding law, rules, or procedures applicable to the commission.

Rule 7.21 adopted effective July 17, 2009; amended effective January 1, 2012.

Rule 7.22 Breach of confidentiality

A special committee of the Board of Trustees must investigate a claim of breach of confidentiality.⁸ The President of the State Bar, subject to the approval of the Board, must appoint the special investigative committee within 7 days of the report of a breach of confidentiality.

Rule 7.22 adopted effective July 17, 2009; amended effective November 19, 2010; amended effective January 1, 2012.

Rule 7.23 Disclosure of conflicts of interest

In order to avoid conflicts of interest that may interfere or appear to interfere with the commission's ability to impartially assess the qualifications of a candidate for judicial office, a commissioner or board member attending a commission meeting or inspecting commission records must immediately disclose to the chair the nature of any significant present or past familial, professional, business, social, political, or other relationship with a candidate, whether direct or indirect.

Rule 7.23 adopted effective July 17, 2009.

Rule 7.24 Disqualification from participation

- (A) If a commissioner or the chair determines that a relationship would unduly influence or appear to influence the commissioner's consideration of a candidate's qualifications, the commissioner must not investigate or evaluate the candidate and must refrain from attempting to influence the evaluation of any other commissioner. Factors to be considered in making the determination include the date of the relationship, its duration, and whether it is more than casual or incidental. If the commissioner determines that the relationship does not require disqualification and the chair disagrees, the determination of the chair prevails.
- (B) A disqualified commissioner may complete a Confidential Comment Form on a candidate but may not be present when the commission considers or votes on the candidate or be identified as a rater at a commission meeting.

⁸ See Business & Professions Code §§ 6044, 6049, 6050, 6051, 6051.1, and 6052.

- (C) A board member whose relationship with a candidate may interfere or appear to interfere with the commission's ability to impartially assess the qualifications of the candidate may not be present when the commission meets to consider the candidate, may not review commission records regarding the candidate, and must refrain from attempting to influence the evaluation of any commissioner regarding the candidate.

Rule 7.24 adopted effective July 17, 2009.

Rule 7.25 Qualities evaluated

In evaluating the qualifications of judicial candidates, the commission must consider the extent to which candidates possess the following qualities, the absence of any one of which is not intended to be disqualifying: impartiality, freedom from bias, industry, integrity, honesty, legal experience broadly,⁹ professional skills, intellectual capacity, judgment, community respect, commitment to equal justice, judicial temperament, communication skills, and job-related health. In addition

- (A) Superior court candidates are expected to have the qualities of decisiveness, oral communication skills, and patience;
- (B) Court of Appeal candidates are expected to have the qualities of collegiality, writing ability, and scholarship; and
- (C) Supreme Court candidates are expected to have the qualities of collegiality, writing ability, scholarship, distinction in the profession, and breadth and depth of experience.

Rule 7.25 adopted effective July 17, 2009.

Rule 7.26 Ratings assigned

- (A) The commission must assign one of the following ratings to candidates for superior court:
 - (1) exceptionally well qualified to candidates possessing qualities and attributes of remarkable or extraordinary superiority that enable them to perform the judicial function with distinction;
 - (2) well qualified to candidates possessing qualities and attributes indicative of a superior fitness to perform the judicial function with a high degree of skill and effectiveness;
 - (3) qualified to candidates possessing qualities and attributes sufficient to perform the judicial function adequately and satisfactorily; or

⁹ Government Code § 12011.5(d).

- (4) not qualified to candidates possessing less than the minimum qualities and attributes required by these rules.
- (B) The commission must assign one of the following ratings to candidates for the Court of Appeal or the Supreme Court:
 - (1) exceptionally well qualified to candidates possessing qualities and attributes of remarkable or extraordinary superiority that enable them to perform the appellate judicial function with distinction;
 - (2) well qualified to candidates possessing qualities and attributes indicative of a superior fitness to perform the appellate judicial function with a high degree of skill, effectiveness, and distinction;
 - (3) qualified to candidates possessing qualities and attributes sufficient to perform the appellate judicial function with a high degree of skill and effectiveness; or
 - (4) not qualified to candidates possessing less than the minimum qualities and attributes required by these rules.

Rule 7.26 adopted effective July 17, 2009.

Rule 7.27 Rating imputed

Notwithstanding any other provision of these rules, a candidate is deemed qualified if elected to superior court and then appointed by the Governor to fill the vacant and unexpired term for that office immediately preceding the term to which he or she has been elected.

Rule 7.27 adopted effective July 17, 2009.

Chapter 3. Procedures

Article 1. In general

Rule 7.40 Assignment of commissioners

The chair or staff in the chair's absence must appoint a team of commissioners ("team"), one of whom is designated as lead, to investigate candidates and report to the commission as follows:

- (A) for a candidate for superior court, a team of two or more commissioners, one of whom is a State Bar ~~member~~[licensee](#); and

- (B) for a candidate for the Court of Appeal or Supreme Court, a team of three or more commissioners, one of whom is a public member.

Rule 7.40 adopted effective July 17, 2009.

Rule 7.41 Duties of lead commissioner

The lead commissioner must

- (A) contact the other team members to establish procedures to facilitate the investigation, reduce duplication of effort, and assure compliance with these rules; and
- (B) before beginning the investigation, notify the candidate that the investigation is pending.

Rule 7.41 adopted effective July 17, 2009.

Article 2. Confidential Comment Forms

Rule 7.45 Candidate's contact list

Upon receiving the name of a candidate, the team must ask the candidate to provide the names of and contact information for fifty to seventy-five people to whom Confidential Comment Forms may be sent because they are reasonably likely to have knowledge of the candidate's qualifications.

Rule 7.45 adopted effective July 17, 2009.

Rule 7.46 Commission's contact list

- (A) Upon receiving the name of a candidate, the team must prepare a list of people to whom Confidential Comment Forms may be sent because they are reasonably likely to have knowledge of the candidate's qualifications. To the extent feasible, the list must reflect a broad cross-section of attorneys who practice the same types of law as the candidate and where the candidate practices.
- (B) Whenever possible the team will not place continuing and exclusive reliance on the same sources of information in evaluating candidates from a given area.

Rule 7.46 adopted effective July 17, 2009.

Rule 7.47 Required distribution

- (A) The objective of the team must be to obtain a return of at least fifty Confidential Comment Forms that provide information that is sufficient and credible for a fair evaluation.

- (B) Absent unusual circumstances, the team must send confidential questionnaires to
- (1) all those listed in a candidate's Application for Appointment and all others whose names are submitted by the candidate;
 - (2) seventy-five selected at random from the commission's mailing list;
 - (3) all judicial officers in each county where a candidate practices and seeks appointment, except for the County of Los Angeles;
 - (4) at least fifty percent of all judicial officers, including those reasonably likely to have knowledge of a candidate's qualifications if the candidate practices in the County of Los Angeles and all judicial officers in any other county where the candidate seeks appointment;
 - (5) all justices of any appellate district where a candidate practices and all justices of the California Supreme Court; and
 - (6) all or at least fifty randomly selected prosecutors and criminal defenders, whichever number is less, in any county where a candidate practices criminal law and any other county where the candidate seeks appointment.
- (C) A team member who receives negative or adverse comments on a Confidential Comment Form must make a reasonable effort to contact the person who completed the form and be prepared to report the results of the contact to the commission.

Rule 7.47 adopted effective July 17, 2009.

Article 3. Candidate interviews

Rule 7.50 Prior disclosure of substantial and credible adverse allegations

At least four business days before interviewing a candidate, the team must disclose to the candidate as specifically as possible without breaching the confidentiality required by these rules any substantial and credible adverse allegations related to temperament, industry, integrity, ability, experience, health, physical or mental condition, or moral turpitude that would be determinative of unsuitability for judicial office unless rebutted. The team may disclose only allegations it has corroborated.

Rule 7.50 adopted effective July 17, 2009.

Rule 7.51 Purpose and timing of candidate interviews

- (A) When the lead commissioner determines that a reasonable time has lapsed for return of Confidential Comment Forms and a sufficient number of forms has been returned to enable the team to evaluate the candidate's qualifications, the entire team must interview the candidate to
 - (1) discuss as specifically as possible all factors positive and negative, relevant to qualifications regarding which the team requires further information, without breaching the confidentiality required by these rules; and
 - (2) afford the candidate the opportunity to respond to the adverse information provided to the candidate¹⁰ and present additional information regarding qualifications that support his or her candidacy.
- (B) Before voting on the candidate, the commission must afford the candidate a reasonable opportunity to provide the commission with additional information in response to adverse allegations raised in the interview.

Rule 7.51 adopted effective July 17, 2009.

Rule 7.52 Conduct of candidate interviews

- (A) The team must interview a candidate in person, unless the chair authorizes the use of remote means in unusual circumstances. A candidate may not be interviewed by or appear before the entire commission in connection with his or her nomination.
- (B) In conducting the interview, the team must do nothing to enable the candidate to ascertain the source of information it has received under the assurance of confidentiality.
- (C) Unless the candidate objects, the interview must be recorded and the recording retained in accordance with these rules. A candidate who objects to recording is not entitled to review of a rating of not qualified.

Rule 7.52 adopted effective July 17, 2009.

Article 4. Evaluations

Rule 7.55 Separate evaluation of candidate for superior court and appellate court

When the Governor names a candidate for a superior court and an appellate court, the commission must conduct separate evaluations for each judicial office.

Rule 7.55 adopted effective July 17, 2009.

¹⁰ Rule 7.50.

Rule 7.56 Summary evaluation of candidate previously evaluated for superior court or Court of Appeal

- (A) The commission may conduct a summary evaluation based on a completed evaluation and rating of qualified or higher for
 - (1) a superior court candidate whom the Governor later proposes for the superior court of a different county; or
 - (2) a Court of Appeal candidate whom the Governor later proposes for a different district of the Court of Appeal.
- (B) In determining whether to conduct a summary evaluation, the commission must consider the same factors the chair would consider when the Governor requests a new evaluation of a candidate.¹¹

Rule 7.56 adopted effective July 17, 2009.

Rule 7.57 Evaluation of Supreme Court candidate named for Court of Appeal

If the commission has rated a candidate for the Supreme Court as qualified or higher, and the Governor within a reasonable time proposes the candidate for the Court of Appeal, the rating applies for the Court of Appeal vacancy.

Rule 7.57 adopted effective July 17, 2009.

Article 5. Reports

Rule 7.60 Reports to commission

At the conclusion of an investigation and evaluation, the team must provide the commission with a written report on the candidate and, absent unusual circumstances, the lead commissioner must present the report in person. The report must specify the number of Confidential Comment Forms mailed and the number received; categorize the responses; summarize substantial and credible information submitted; recommend a rating; and otherwise comply with commission instructions.

Rule 7.60 adopted effective July 17, 2009.

Rule 7.61 Reports to Governor

- (A) A commission report to the Governor regarding the qualifications of a candidate must include the names of the team members; the number of Confidential Comment Forms mailed and the number returned; and the number of

¹¹ See Rule 7.57.

commission votes for each rating, except when the commission has found the candidate not qualified on the basis of substantial and credible information. When a report includes the number of commission votes, it must also provide the number of any commissioners who were present for the discussion of a candidate but then abstained from voting for any reason.

- (B) If the commission has found a candidate not qualified, the report must also
 - (1) state that “at least 75% of the commissioners voting or abstaining find the candidate not qualified” and not provide the number of votes; or
 - (2) state that “a majority that is less than 75% of the commissioners voting or abstaining finds the candidate not qualified” with the number of votes and provide the number of votes.
- (C) If unusual circumstances prevent a team from creating mailing lists, distributing Confidential Comment Forms, obtaining responses, or otherwise meeting the requirements of these rules, the team must identify those circumstances in its report to the Governor.
- (D) If a State Bar complaint against a candidate is pending when the commission votes on the candidate, the commission must ask the Governor to withdraw the name unless the candidate is a sitting judge and the complaint concerns activity that occurred before the candidate assumed judicial office. If the commission votes such a candidate not qualified, it must notify the Governor's office that the basis for the not qualified rating is the open complaint.
- (E) If half the commissioners voting or abstaining rates a candidate not qualified and half rates the candidate qualified or better, the candidate is reported as qualified. A candidate is reported as not qualified only if more than half the commissioners voting or abstaining rate the candidate not qualified.
- (F) In general, the commission makes reports to the Governor in the order in which the Governor has submitted the names of candidates. The commission may consider a candidate out of order if the chair determines that there are reasons to do so.

Rule 7.61 adopted effective July 17, 2009.

Article 6. Reconsideration

Rule 7.65 Reconsideration of not qualified rating

Only a candidate rated not qualified is entitled to request reconsideration of the rating. Within ten days of sending the Governor a rating of not qualified, the commission must notify the candidate in writing of the not qualified rating and the right to request reconsideration. The candidate must make a request in accordance with these rules

within thirty days of receiving the written notice. The review committee will complete review of a candidate's request for reconsideration not later than 90 days after the State Bar receives the request. The State Bar will not make the not qualified rating public while the review is pending.¹²

Rule 7.65 adopted effective July 17, 2009; amended effective November 19, 2010.

Rule 7.66 Review committee

- (A) To review candidates' requests for reconsideration of a commission rating, the Board of Trustees must appoint a five-member review committee consisting of two members of the Board of Trustees, one of whom shall be a public member and one an attorney ~~member~~licensee, one past member of the commission, and two at large members to be appointed at the discretion of the Board of Trustees. Neither of these at large members will be current members of the Board of Trustees.
- (B) The review committee has absolute discretion to rescind the opinion of the commission if it has good cause to believe that
 - (1) violation of these rules has materially affected the commission's rating;
 - (2) conflict of interest or bias has affected the rating;
 - (3) an inadequate or biased mailing list was used;
 - (4) new evidence, which the candidate had no reasonable opportunity to present, could have changed the rating; or
 - (5) after review of the candidate's record, the commission's rating of not qualified is not supported by substantial evidence.
- (C) If a member of the review committee recuses himself or herself in a particular matter, the Executive Director of the State Bar must assign the matter to a temporary member who has previously served on the review committee.

Rule 7.66 adopted effective July 17, 2009; amended effective November 19, 2010; amended effective January 1, 2012.

Rule 7.67 Candidate's request for new evaluation

If the review committee rescinds a not qualified rating of the commission and the candidate requests a new investigation, the chair must appoint new investigators to conduct the new investigation. The candidate's request must be submitted in writing and be received within thirty days of issuance of notice of the rescission.

¹² Gov. Code § 12011.5, subd. (g).

Rule 7.67 adopted effective July 17, 2009.

Rule 7.68 Governor's request for new evaluation

- (A) If the Governor requests a new evaluation of a candidate whom the commission has rated not qualified, the chair must determine whether or not a new investigation is required.
- (B) To determine whether or not a new investigation is required, the chair must consider
 - (1) the extent to which the original investigation failed to include facts or information that should have been investigated;
 - (2) the extent to which acts or events occurring after the investigation could change the rating;
 - (3) the extent to which additional information or the candidate's further rebuttal of adverse information would assist the commission in assessing a material issue;
 - (4) whether the original investigation is still timely, "timely" normally meaning concluded within the last twelve months;
 - (5) the candidate's current disciplinary record; and
 - (6) other factors that may be relevant.
- (C) If the chair determines that a new investigation is not required, at its next meeting following receipt of the Governor's request the commission must vote to affirm its rating or assign a new one.
- (D) If the chair determines that a new investigation is required, the chair must assign it to the original team or a new one. Upon receipt of the team's report, the chair must provide it to the commission at its next meeting to vote on the candidate's qualifications.

Rule 7.68 adopted effective July 17, 2009.

TITLE 7. MISCELLANEOUS PROVISIONS

Adopted July 2007

DIVISION 2. SPECIAL MASTERS

Rule 7.100 Special Masters

Special masters are court-appointed attorneys who without compensation accompany peace officers to serve search warrants and conduct searches for evidence in the possession or under the control of attorneys or other specified professionals.¹ Courts appoint special masters to balance the interests of the professionals and their clients in protecting privileged materials with the interests of prosecutors in securing evidence of suspected criminal activity. Attorneys who meet the requirements of these rules are listed by the State Bar as qualified for court appointment as special masters. The only role of the State Bar is to maintain the list. The State Bar cannot offer advice regarding the appointment of a special master.

Rule 7.100 adopted effective March 7, 2014.

Rule 7.101 Eligibility

To be listed as qualified to serve as a special master, an attorney must

- (A) submit a Special Master Application to the State Bar;
- (B) at the time of application
 - (1) have been an active ~~member~~licensee of the State Bar for the preceding five years;
 - (2) not have been disciplined in any court or jurisdiction during the preceding ten years;
 - (3) not have devoted more than twenty-five percent of his or her practice of law to criminal matters during the preceding year;
 - (4) not be subject to disciplinary investigation or prosecution; and
- (C) during the period when listed as qualified for appointment
 - (1) be an active ~~member~~licensee of the State Bar;

¹ Penal Code § 1524(c) and (d).

- (2) not be employed by a public defender, district attorney, attorney general, or a law enforcement agency;
- (3) not be a certified criminal law specialist; and
- (4) devote less than five percent of law practice time to criminal law issues.

Rule 7.101 adopted effective March 7, 2014; amended effective November 7, 2014.

Rule 7.102 Duties of a special master

In acting as a special master, an attorney must conduct searches and otherwise act in compliance with Penal Code section 1524.

Rule 7.102 adopted effective March 7, 2014.

Rule 7.103 Employment status

In acting as a special master, an attorney

- (A) is considered a public employee of the governmental entity that caused the search warrant to be issued;² and
- (B) is not considered an agent or representative of the State Bar.

Rule 7.103 adopted effective March 7, 2014.

Rule 7.104 Term

- (A) An attorney may be listed by the State Bar as eligible for special master appointment for five years. At the end of the term of appointment, an attorney who wishes to continue eligibility must submit a new Special Master Application.
- (B) The listing as qualified for special master appointment may be terminated upon
 - (1) prosecution or disciplinary action by the Supreme Court, the State Bar Court, or any body authorized to impose professional discipline;
 - (2) a court order removing an attorney as a special master;
 - (3) the request of the attorney;
 - (4) a determination that the attorney made a false material representation or misstatement of material fact in the application; or

² Penal Code § 1524(d)(1).

- (5) failure to comply with a requirement of these rules.

Rule 7.104 adopted effective March 7, 2014.

Rule 7.105 Confidentiality

A Special Master Application is confidential. Only the State Bar list of persons qualified to serve as special masters is public information.

Rule 7.105 adopted effective March 7, 2014.

RULES OF THE STATE BAR OF CALIFORNIA
APPENDIX A: SCHEDULE OF CHARGES AND DEADLINES FOR 2019

ANNUAL LICENSE FEES

Adopted July 2007
Revised September 13, 2018

The Rules of the State Bar provide that "If a rule refers to the Schedule of Charges and Deadlines, the referenced date or amount is part of the rule."¹ Unrevised rules state such amounts or dates in their text or otherwise indicate what they are.

Charges and deadlines are adopted by the Board of Trustees unless otherwise indicated.

Note: Charges are base amounts that may be increased as specified by rule or otherwise authorized by law.

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
2.11	Annual license fees at active rate	\$430.00	February 1
	Annual license fees at inactive rate	\$155.00	February 1
2.12	(A) Admitted between January 1 and May 31	\$430.00	45 days from invoice date
	(B) Admitted between June 1 and November 30	\$215.00	45 days from invoice date
	(C) Administrative fee for admission in December	None	N/A
2.13	Penalties for late payment of annual license fees received at the State Bar or USPS-postmarked <i>after February 1</i> .		
	Billed at active rate	\$100.00	February 1
	Billed at inactive rate	\$30.00	February 1
	Attorneys admitted between Jan. 1 and May 31	\$100.00	45 days from invoice date
	Attorneys admitted between June 1 and Nov. 30	\$50.00	45 days from invoice date
2.15	(A) Scaling deadline for qualified active attorneys (25% reduction of base active fee of \$383)	\$334.25	February 1 or 45 days from date of invoice if admitted between January 1 and May 31
	(B) Scaling deadline for qualified employers (25% reduction of base active fee of \$383)	\$334.25	February 1
2.31	(A) Transfer to active status	\$430.00	For transfer at any time
	(B) Transfer to inactive status	\$155.00	February 1
2.33	(C)(2) Reinstatement fee to terminate suspension for nonpayment ²	\$100.00	At time reinstatement is requested
2.71; 2.90	MCLE noncompliance	\$75.00	February 1; August 23
2.90	MCLE audit deficiency	\$200.00	August 23
2.71; 2.93	Reinstatement fee to terminate MCLE inactive enrollment	\$200.00	At time reinstatement is requested

¹ State Bar Rule 1.20(L).

² Business & Professions Code § 6143 provides that the reinstatement fee may not exceed double the amount of delinquent [dues](#)[fees](#), penalties, or costs.

TITLE 3, DIVISION 3, CHAPTER 4

FOREIGN LEGAL CONSULTANTS

Amended effective July 24, 2010

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
3.401(A)(1)	Application for registration as attorney applicant for admission	Equivalent to Admissions Registration fee. See Rule 4.16	Not applicable
3.401(A)(2)	Application for Registered Foreign Legal Consultant	\$370	Not applicable
3.401(A)(3)	Application for Moral Character Determination	Equivalent to Application for Determination of Moral Character fee. See Rule 4.	Not applicable
3.402(A); see also 3.408(A)(1)	Annual Renewal as Registered Foreign Legal Consultant	Equivalent to annual membership license fee for active State Bar member licensee . See Rule 2.11	March 1
3.404	Insurance that includes cost of defense as security for claims	\$150,000 for each claim; \$450,000 for all claims	Not applicable
3.404(A)	Insurance that excludes cost of defense, as security for claims	\$100,000 for each claim; \$300,000 for all claims	Not applicable
3.404(B)	Insurance deductible amount requiring letter of credit or written agreement as evidence of security for claims	Any deductible above \$10,000	Not applicable
3.405	Letter of credit as security for claims	\$100,000 for each claim; \$300,000 for all claims in calendar year	Not applicable
3.406	Written guarantee as security for claims	\$100,000 for each claim; \$300,000 for all claims in calendar year	Not applicable
3.407	Written agreement as evidence of security for claims	\$150,000 for each claim; \$450,000 for all claims	Not applicable
3.408(A)(1)	Annual renewal deadline; penalty for late renewal	Equivalent to penalty for late payment fee for active State Bar member licensee . See Rule 2.13	March 30

TITLE 3, DIVISION 3, CHAPTER 1, ARTICLE 1

REGISTERED LEGAL SERVICES ATTORNEYS

*Fees previously adopted by the Board of Trustees or mandated by statute.
Amended effective **January 1, 2016**.*

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
3.361(A)(1)	Application for registration as attorney applicant for admission	Equivalent to Admissions Registration fee. See Rule 4.16	Not applicable
3.361(A)(2)	Application for Registered Legal Services Attorney	\$635	Not applicable
3.361(A)(2)	Moral Character Determination application	Equivalent to Application for Determination of Moral Character Fee	Not applicable
3.362(A)(1)	Annual renewal as Registered Legal Services Attorney	Equivalent to annual membership license fee for active State Bar member licensee . See Rule 2.11	March 1
3.364(A)(1)	Annual renewal deadline; penalty for late renewal	Equivalent to penalty for late payment fee for active State Bar member licensee . See Rule 2.13	March 30

TITLE 3, DIVISION 3, CHAPTER 1, ARTICLE 2

REGISTERED IN-HOUSE COUNSEL

*Fees previously adopted by the Board of Trustees or mandated by statute.
Amended effective **January 1, 2016.***

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
3.371(A)(1)	Application for registration as attorney applicant for admission	Equivalent to Admissions Registration fee. See Rule 4.16	Not applicable
3.371(A)(2)	Application for Registered In-House Counsel	\$635	Not applicable
3.371(A)(3)	Application for Moral Character Determination	Equivalent to Application for Determination of Moral Character fee. See Rule 4.	Not applicable
3.372(A); see also 3.374(A)(1) 	Annual Renewal as Registered In-House Counsel	Equivalent to annual membership - license fee for active State Bar member licensee . See Rule 2.11	March 1
3.374(A)(1) 	Annual renewal deadline; penalty for late renewal	Equivalent to penalty for late payment fee for active State Bar member licensee . See Rule 2.13	March 30

TITLE 6, DIVISION 1, CHAPTER 1

TABLE OF ELECTION DEADLINES

~~Amended effective January 1, 2016.~~

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
6.1(B)	Nominating petitions available	Not applicable	October 1, 2015
6.1(B)	Last day to file nominating petitions	Not applicable	December 1, 2015
6.1(B)	Last day to withdraw nomination	Not applicable	December 11, 2015
6.1(B)	Eligibility list closes	Not applicable	December 22, 2015
6.4(A)	Ballots mailed	Not applicable	December 31, 2015
6.4(B)	Last day for voting	Not applicable	February 29, 2016
6.4(B); 6.5	Canvass of ballots	Not applicable	March 7-10, 2016
	Annual Meeting (terms begin)⁺	Not applicable	September 29-October 2, 2016

⁺ ~~Business and Professions Code § 6025 authorizes the Board of Trustees to fix in these rules the time each year for the Annual Meeting of the State Bar.~~

TITLE 6, DIVISION 1, CHAPTER 1

TABLE OF ELECTION DEADLINES

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Rules of Procedure of the State Bar of California

January 1, 2019

Rules of Procedure of the State Bar of California

**With Amendments Adopted by the Board of Trustees (formerly Board
of Governors) Effective January 1, 2011, with subsequent revisions**

Title 5: Discipline

Division 1	General Rules
Division 2	Case Processing
Division 3	Review Department and Powers Delegated by Supreme Court
Division 4	Involuntary Inactive Enrollment Proceedings
Division 5	Probation Proceedings
Division 6	Special Proceedings
Division 7	Regulatory Proceedings

Title III: General Provisions

Title IV: Standards for Attorney Sanctions for Professional Misconduct

PREFACE

The Rules of Procedure of the State Bar of California are adopted by the Board of Trustees (formerly Board of Governors) of the State Bar in order to facilitate and govern proceedings conducted through the State Bar Court and otherwise. On September 22, 2010, the Board approved amendments to the rules that govern procedures in the State Bar Court. The amendments involve some substantive changes, as well as reordering and renumbering of the rules to make them clearer, better organized and easier to read. A chart follows at pages xiv - xxii that provides a conversion from the former rule number to the new rule number.

Effective January 1, 2011, the amended rules will apply to all pending and future matters filed in the State Bar Court, except as to:

1. Hearing Department proceedings in which the taking of testimony or the offering of evidence at trial has commenced;
2. Review Department matters in which a request for review is filed prior to January 1, 2011; and
3. Any other particular proceeding pending as of the effective date in which the Court orders the application of former rules based on a determination that injustice would otherwise result.

The amended rules (rules 5.1 to 5.466) are found in Title 5 and conform to the new organizational structure for all the Rules of the State Bar. The revised rules begin with the number 5 (for Title 5), which is followed by a period and then a sequential number.

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The rules in Title III were not included in the rule revisions adopted by the Board of Trustees effective January 1, 2011. The rule numbers and language of Title III remain the same and will remain in effect in their current form. To the extent any rule of procedure is referenced within Title III, that rule shall be applicable in its revised form, which can be determined using the Rule Number Conversion Chart at pages xiv - xxii.

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TITLE 5. DISCIPLINE

Rules of Procedure of the State Bar of California Adopted effective January 1, 2011, and amended as indicated below.

Division 1. General Rules

Rule 5.1 Title and Authority

These rules are the Rules of Procedure of the State Bar of California.

Rule 5.2 Authority to Adopt

These rules are adopted by the Board of Trustees of the State Bar under Business and Professions Code § 6086 to facilitate and govern proceedings in the State Bar Court, the Office of the Chief Trial Counsel and the Office of Probation.

Rule 5.3 Ordinary Meanings

All terms used in these rules have their ordinary meanings unless specifically defined otherwise. Some definitions may be limited to the rules in which they appear.

Rule 5.4 Definitions

These definitions apply to all rules, unless otherwise stated. Defined terms are not capitalized unless they are proper names.

(1) “Appellant” means a party who makes a request for review or summary review by the Review Department.

(2) “Appellee” means a party opposing an appellant in a State Bar Court proceeding.

(3) “Applicant” means a party seeking admission to the State Bar in a moral character proceeding under these rules.

(4) “Assigned judge” means the hearing judge assigned to adjudicate a State Bar Court proceeding.

(5) “Attorney” means an attorney subject to the disciplinary or regulatory jurisdiction of the State Bar.

~~(5)~~ (6) “Board of Trustees” means the Board of Trustees of the State Bar or its designee.

~~(6)~~ (7) “Board of Trustees Discipline Oversight Committee” means the committee designated by the Board of Trustees to address attorney discipline matters.

~~(7)~~ (8) “California State Bar Court Reporter” means the publication of the State Bar of California containing the opinions of the State Bar Court, Review Department.

~~(8)~~ (9) “Chief Trial Counsel” means the chief trial counsel of the State Bar appointed in accordance with Business and Professions Code § 6079.5, or the counsel’s designee.

~~(9)~~ (10) “Clerk” means the Clerk of the State Bar Court or the clerk’s designee.

~~(10)~~ (11) “Client Security Fund” means the Client Security Fund established by the State Bar under Business and Professions Code § 6140.5 to compensate victims of attorney dishonesty.

~~(11)~~ (12) “Committee of Bar Examiners” means the committee appointed by the Board of Trustees under Business and Professions Code §§ 6046–6046.5 to address admissions matters.

~~(12)~~ (13) “Consumer” means a consumer within the meaning of Code of Civil Procedure § 1985.3(a)(2).

~~(13)~~ (14) “Complaint” means a communication alleging misconduct by a State Bar ~~member~~ attorney sufficient to warrant an investigation that may result in discipline of the ~~member~~ attorney if the allegations are proved.

~~(14)~~ (15) “Complainant” means a person who alleges misconduct by a State Bar ~~member~~ attorney.

~~(15)~~ (16) “Counsel” means an active ~~member~~ attorney of the State Bar, or an attorney admitted pro hac vice, who is counsel of record for a party in a State Bar Court proceeding.

~~(16)~~ (17) “Court” means the State Bar Court, Hearing Department, Review Department, or any associated judge.

~~(17)~~ (18) “Court days” are the days that the State Bar Court is open for business, published in an annual calendar that indicates holidays and is available from the Clerk.

~~(18)~~ (19) “Customer” means a customer within the meaning of Government Code § 7465.

~~(19)~~ (20) “Days” are all calendar days, including days on which the State Bar Court is not open for business.

~~(20)~~ (21) “Declaration” means an affidavit or writing that complies with the requirements of Code of Civil Procedure § 2015.5.

~~(21)~~ (22) “Deputy Trial Counsel” means the attorney from the Office of the Chief Trial Counsel who represents the State Bar in a State Bar Court proceeding – other than the Chief Trial Counsel.

~~(22)~~ (23) “Disciplinary proceeding” means a proceeding initiated for the purpose of seeking the imposition of discipline against a State Bar ~~member~~ attorney.

~~(23)~~ (24) “Executive Committee” means the committee of the State Bar Court appointed by the Presiding Judge under Business and Professions Code § 6086.65(b).

~~(24)~~ (25) “Executive Director” means the Chief Executive Officer of the State Bar or the officer’s designee.

~~(25)~~ (26) “Financial institution” has the meaning provided in Government Code § 7465(a).

~~(26)~~ (27) “Formal proceeding” means a proceeding in the State Bar Court, including any disciplinary proceeding.

~~(27)~~ (28) “General Counsel” means the General Counsel of the State Bar or the counsel’s designee.

~~(28)~~ (29) “Hearing” means a proceeding on the record before a judge of the Hearing Department, including:

- (a) a conference – but not a settlement conference;
- (b) a hearing on a motion;
- (c) an evidentiary hearing;
- (d) a trial; or
- (e) any other proceeding before a judge of the Hearing Department.

~~(29)~~ (30) “Hearing Department” means the trial department of the State Bar Court established by Business and Professions Code §§ 6079.1 and 6086.5.

~~(30)~~ (31) “Hearing judge” means a judge of the Hearing Department.

~~(31)~~ (32) “Initial pleading” means the notice of disciplinary charges, notice of hearing, petition, or other pleading that begins a State Bar Court proceeding.

~~(32)~~ (33) “Inquiry” means an evaluation to decide whether any action is warranted by the State Bar based on information relating to the conduct of a State Bar ~~member~~ attorney and received by the Office of the Chief Trial Counsel.

~~(33)~~ (34) “Investigation” means the process of obtaining, evaluating, and reviewing evidence and information.

~~(34)~~ (35) “Judge” means a judge or judge pro tempore of the State Bar Court appointed in accordance with Business and Professions Code § 6079.1 or § 6086.65.

~~(35)~~ (36) “Judicial Nominees Evaluation Commission” means the State Bar agency that evaluates candidates for state judicial office under Government Code § 12011.5.

(36) ~~“Member” means an attorney subject to the disciplinary or regulatory jurisdiction of the State Bar.~~

(37) “Notice of Disciplinary Charges” means the initial pleading that provides notice of the rules, statutes, or orders the ~~member~~ attorney is alleged to have violated.

“Office of the Chief Trial Counsel” or “Office of Trials” means the State Bar office that prosecutes attorney discipline and regulatory matters under the direction of the Chief Trial Counsel.

(38) “Overnight mail” means any method of overnight delivery service authorized by Code of Civil Procedure § 1013.

(39) “Party” means the State Bar or a respondent, petitioner, applicant, or ~~member~~ attorney who is the subject of a State Bar Court proceeding.

(40) “Petitioner” means a party who has filed a petition permitted in State Bar Court proceedings, such as a petition for reinstatement or a petition for transfer to active enrollment.

(41) “Pleading” means any paper filed by a party as part of the record in a State Bar Court proceeding – except a transcript or an exhibit.

(42) “President of the State Bar” means the chief officer of the State Bar elected in accordance with Business and Professions Code § 6020.

(43) “Presiding Judge” means the judge who presides over the State Bar Court and is appointed in accordance with Business and Professions Code §§ 6079.1 and 6086.65, or the judge’s designee.

(44) “Reasonable cause” means a situation that would lead a person of ordinary care and prudence to believe, or entertain a strong suspicion, that something is true.

(45) “Respondent” means ~~a member~~ an attorney who is the subject of a disciplinary proceeding in the State Bar Court.

(46) “Response” means a responsive pleading or answer.

(47) “Review Department” means the appellate department of the State Bar Court established in accordance with Business and Professions Code § 6086.65.

(48) “Settlement Conference” means a meeting between parties conducted to reach a compromise without trial.

(49) “State Bar” means the State Bar of California.

(50) “State Bar Court” means the adjudicative tribunal established in accordance with Business and Professions Code §§ 6079.1, 6086.5, and 6086.65.

(51) “State Bar Court proceeding” means a proceeding in the State Bar Court, including a formal proceeding.

(52) “Supervising Judge” means the supervising judge of the Hearing Department.

(53) “Supreme Court” means the Supreme Court of California.

(54) “Trial” means an evidentiary hearing on the merits of a State Bar Court proceeding before a hearing judge – not including a hearing on a motion or probable cause hearing under Business and Professions Code § 6007(b).

(55) “Trust Account Financial Record” means a financial record that ~~a member~~ an attorney must maintain in accordance with the Rules of Professional Conduct of the State Bar.

Rule 5.5 References to Statutes and Rules

All references in these rules to statutes and rules are to the statutes and rules as amended.

Rule 5.6 Scope

The rules in Divisions 1 through 7 govern the procedures in all State Bar Court proceedings.

Rule 5.7 Assignment of Judges Pro Tempore

When a State Bar Court proceeding might be delayed because a hearing judge is unavailable, the Presiding Judge may assign a judge pro tempore to preside over the proceeding.

Rule 5.8 Disposition of Pending Matters After a Judge’s Term Expires

Unless the Supreme Court directs otherwise, when a judge’s term expires, the Board of Trustees may appoint the judge to serve as a judge pro tempore so that the judge can complete pending matters.

Rule 5.9 Public Nature of State Bar Court Proceedings

Except as otherwise provided by law or by these rules, all State Bar Court proceedings must be public except settlement conferences and portions of the record sealed by court order under rule 5.12.

Rule 5.10 Confidential Proceedings

Unless the applicant or ~~member~~ attorney waives confidentiality, proceedings under Business and Professions Code § 6007(b)(3) and moral character proceedings are confidential.

Rule 5.11 Public Records Concerning Resignations

If ~~a member~~ an attorney resigns while disciplinary charges are pending under California Rules of Court, rule 9.21, a copy of the ~~member's~~ attorney's written resignation, the record of any perpetuated evidence, any stipulation as to facts and conclusions of law, and the ~~member's~~ attorney's inactive status must be public and available for public inspection.

Rule 5.12 Order Sealing Portions of the Record

- (A) **Protected Material.** Protected material means any part of a public proceeding's record, including a hearing, testimony, exhibit, pleading, or other document, that the Court orders to be sealed under this rule.
- (B) **Filing a Motion to Seal.** The motion must be supported by specific facts showing that a statutory privilege or constitutionally protected interest exists that outweighs the public interest in the proceeding. The motion may be filed under seal; in that event, it will be treated as protected material until the Court orders otherwise. Unless the movant shows good cause for the delay, the motion may not be made for the first time on review.
- (C) **Care of Protected Material.** The Clerk must keep protected material under seal. Other custodians must mark and maintain the material in a manner calculated to prevent improper disclosure.
- (D) **Recipients of Disclosure.** Unless otherwise ordered, protected material may be disclosed only to:
 - (1) parties to the proceeding and counsel;
 - (2) Supreme Court personnel, State Bar Court personnel, and independent audiotape transcribers; and
 - (3) Office of Probation personnel, when necessary for their official duties.
- (E) **Disclosure of Protected Material.** A person who discloses protected material must give a copy of the applicable order sealing a portion of the record to the other person.
- (F) **Review Department.** Under rule 5.150, the Review Department may review orders of the Hearing Department. The hearing judge or Presiding Judge may order the materials sealed pending any further order of the Review Department or the Supreme Court.
- (G) **Other Requests and Motions.** Nothing in this rule prohibits a request to redact portions of evidence or a motion in limine.

Rule 5.13 Deliberations Are Not Public

The deliberations of State Bar Court judges are confidential.

Rule 5.14 Recorded or Reported Proceedings

The Court must record or report all hearings, trials, and Review Department oral arguments in State Bar Court proceedings, and make copies of the recordings available for purchase from the Clerk.

Rule 5.15 Preparation of Transcripts

The official transcript is prepared under the direction of the State Bar Court. Upon request and advance payment of the cost, the Clerk will cause to be prepared an original and one copy of an official transcript. A party ordering an official transcript of a pending proceeding must serve a copy of the transcript order on all opposing parties. The original transcript will be filed with the Clerk and the copy will be furnished to the requesting party. Additional copies may be obtained from the Clerk upon payment of the cost. Payment may be waived under rule 5.192(B).

Rule 5.16 Photographs, Recordings, and Broadcasts of State Bar Court Proceedings

- (A) Request and Permission.** A public State Bar Court proceeding may be photographed, recorded, or broadcast only on written order of the hearing judge or, if pending in the Review Department, the Presiding Judge. A request must be in the form approved by the Executive Committee and submitted to the hearing judge or Review Department at least five days before the proceeding.
- (B) Notice.** The Clerk must notify all parties that a request has been received.
- (C) Disposition of Request.** To decide whether to grant the request, the hearing judge or the Presiding Judge will consider the factors for nonjury proceedings set forth in California Rules of Court, rule 1.150(e)(3). The hearing judge or Presiding Judge may:

 - (1) deny the request;
 - (2) limit the requested photographing, recording, or broadcasting; or
 - (3) require the requesting person to pay any increased court-incurred costs.
- (D) Use of Audio-Only Recordings.** When permission to audiotape is granted, the recordings must be used only as personal notes.

Division 2. Case Proceedings

Chapter 1. Commencement of Proceedings

Rule 5.20 Beginning Proceeding

A State Bar Court proceeding begins when a party files the initial pleading.

Rule 5.21 Limitations Period

- (A) **Time Limit for Complaint.** If a disciplinary proceeding is based solely on a complainant's allegations of a violation of the State Bar Act or Rules of Professional Conduct, the proceeding must begin within five years from the date of the violation.
- (B) **When Violation Occurs.** The State Bar Act or a Rule of Professional Conduct is violated when every element of a violation has occurred. But if the violation is a continuing offense, the violation occurs when the offensive conduct ends.
- (C) **Tolling.** The five-year limit is tolled:
- (1) while the ~~member~~ attorney represents the complainant, the complainant's family member, or the complainant's business or employer;
 - (2) while the complainant is a minor, insane, or physically or mentally incapacitated;
 - (3) while civil, criminal, or administrative investigations or proceedings based on the same acts or circumstances as the violation are pending with any governmental agency, court, or tribunal;
 - (4) from the time the ~~member~~ attorney conceals facts about the violation until the State Bar or the victim discovers the true facts;
 - (5) from the time the ~~member~~ attorney fails to cooperate with an investigation of the violation until the ~~member~~ attorney provides substantial cooperation;
 - (6) from the time the ~~member~~ attorney makes false or misleading statements to the State Bar concerning the violation until the State Bar discovers the true facts;
 - (7) while the disciplinary investigation or proceeding is abated under rule 5.50;
 - (8) while the ~~member~~ attorney is participating in an Alternative Dispute Resolution Mediation Discipline program, Agreement in Lieu of Discipline Prosecution program, or other authorized diversion program;
 - (9) while the investigation is ended by admonition; or
 - (10) while the complaint or investigation is pending before the Office of General Counsel Complaint Review Unit; or
 - (11) while the ~~member~~ attorney is on inactive status pursuant to Business and Professions Code section 6007, subdivision (a) or (b).
- (D) **Authorized Diversion Program.** If the ~~member~~ attorney successfully completes an Alternative Dispute Resolution Mediation Discipline program, Agreement in Lieu of Discipline Prosecution program, or other authorized diversion program, the underlying allegations are barred.
- (E) **Office of General Counsel Complaint Review Unit.** The State Bar must begin disciplinary proceedings within two years after proceedings before the Complaint Review Unit concludes.

- (F) **Death of Complainant.** If a prospective complainant dies before the time to begin a disciplinary procedure expires, a surviving family member or the estate's executor or administrator may file a complaint with the State Bar within two years after the complainant's death.
- (G) **Independent Source.** The five-year limit does not apply to disciplinary proceedings that were investigated and initiated by the State Bar based on information received from an independent source other than a complainant.
- (H) **Waiver.** The ~~member~~ attorney and State Bar may agree in writing to waive or extend the limitations in this rule.
- (I) **Reinstatement Proceedings.** This rule does not apply to reinstatement proceedings.

Eff. January 1, 2011. Revised July 20, 2018.

Rule 5.22 Venue

- (A) **Place.** If the party who is the subject of the proceeding maintains a principal office or residence or committed the violation in Imperial, Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, or Ventura County, then the State Bar Court proceeding must begin in Los Angeles County. For all other California counties, the proceeding must begin in the city of San Francisco.
- (B) **Choice.** If no county or more than one county applies, then the State Bar Court proceeding may begin in either Los Angeles County or the city of San Francisco.

Rule 5.23 Transfer of Venue

- (A) **Filing Motion.** A party must file a motion for transfer of venue as soon as practical in the Court where the proceeding is pending, but not later than the last day of the discovery period.
- (B) **Grounds.** Grounds for transfer are:
 - (1) improper venue, or
 - (2) justice and the convenience of witnesses would be better served in a different venue.
- (C) **Review.** Rulings on motions for transfer of venue are reviewable under rule 5.150.

Rule 5.24 Where to File Pleadings

A party must file pleadings with the Clerk in the venue where the proceeding is located, except when ordered otherwise or in case of emergency. But a party may file pleadings with the Review Department in either location of the State Bar Court.

Rule 5.25 Service of Initial Pleading

- (A) **By Whom.** The initiating party must serve the initial pleading on all other parties, except in matters where the Clerk serves the initial pleading.
- (B) **Service on a ~~Member~~ an Attorney.** When serving a ~~member~~ an attorney who is the subject of a proceeding, the initiating party or Clerk must address the service to the ~~member's~~ attorney's address in the State Bar's ~~membership~~ attorney records. If it is in the United States, service must be made by certified mail, return receipt requested. If it is outside the United States, service must be made by certified mail or other conforming method that confirms delivery.
- (C) **Service on a ~~Nonmember~~ Nonattorney.** When serving a ~~nonmember~~ non-attorney, the initiating party or Clerk may use any method for service of process permitted under the Code of Civil Procedure.
- (D) **Service on Counsel.** When a party files and serves a signed, written notice to serve counsel for the party, the Office of the Chief Trial Counsel and the Clerk may serve only counsel for that party.
- (E) **Service on the State Bar.** To serve the State Bar, the initiating party must serve the Office of the Chief Trial Counsel in the appropriate venue by certified mail, return receipt requested – unless another method of service is specified in the rules governing a particular type of proceeding.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.26 Service of Later Pleadings

- (A) **Proof.** Proof of service on all other parties must accompany any pleading, except joint pleadings, filed after the initial pleading.
- (B) **Service on the State Bar.** To serve the State Bar, a party must serve the designated deputy trial counsel of the Office of the Chief Trial Counsel.
- (C) **Service on a ~~Member~~ an Attorney.** A party must serve a ~~member~~ an attorney at the ~~member's~~ attorney's address in the State Bar's ~~membership~~ attorney records —unless the ~~member~~ attorney has expressly requested that service be made to a different address or has asked for service to his or her counsel.
- (D) **Service on a ~~Nonmember~~ Nonattorney.** When serving a ~~nonmember~~ nonattorney, a party must serve the person at the address given in the most recent pleading the person has filed. But if the person has not provided an

address, the party may accomplish service by any method permitted under the Code of Civil Procedure.

- (E) **Change of Address.** When a person's address changes while a proceeding is pending, or the person wants to be served with pleadings and notices at a different address, the person must file and serve all other parties with a written notice of change of address and a specific request that future service be made to the new address.
- (F) **Method of Service.** A party must serve pleadings by United States mail, overnight mail, personal delivery, State Bar interoffice mail, or, if the receiving party consents, by fax.
- (G) **Service by Fax.** Service by fax is equal to service by overnight mail. The proof of service must state:
 - (1) that the receiving party consented;
 - (2) the date and time of the fax;
 - (3) the telephone numbers of the transmitting and receiving machines; and
 - (4) that the transmitting machine reported a complete transmission without error.
- (H) **Notice Period; Time for Response.** Rule 5.28 applies to notices and responses.

Rule 5.27 Proof of Service

- (A) **By a Party.** A party must make proof of service under Code of Civil Procedure § 1013a.
- (B) **By the Clerk.** The Clerk must make proof of service under Code of Civil Procedure § 1013a(4).
- (C) **Filing Proof of Service**
The proof of service must be attached to all pleadings at the time of filing with the court.

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.28 Computing Time

- (A) **Method.** In State Bar Court proceedings, time is computed under Code of Civil Procedure §§ 12, 12a, 12b, 13, 13a, or 13b. Code of Civil Procedure § 1013(a) applies to service by United States mail or State Bar interoffice mail. When service is made by overnight mail or by fax, the prescribed period to act or respond is extended by two Court days.
- (B) **Calendar Days and Court Days.** "Days" means calendar days when referring to the period within which an act must be performed or a specified

period of notice. But “days” means Court days when the period is five days or fewer and not extended by the manner of service.

Rule 5.29 Orders Shortening or Extending Time; Late Filing

- (A) **Time Limits and Notice Periods.** On its own motion or a party’s motion, and for good cause, the Court may order time limits and notice periods shortened or extended.
- (B) **Shortened Time Limit.** If a party seeks an order shortening a time limit, the party must provide a declaration stating the reasons. A motion to shorten time must be served by personal delivery or overnight mail. The Court may direct the Clerk to notify the parties by telephone that they must file and serve any opposition by a date set by the Court. On motion and for good cause, the Court may extend the time to file a pleading or permit late filing of a pleading.
- (C) **Consent.** When a party moves to extend time or to file late, the party must declare whether the party has requested or secured consent from the other parties.

Rule 5.30 Prefiling; Early Neutral Evaluation Conference

- (A) **Early Neutral Evaluation Conference.** Prior to the filing of disciplinary charges, the Office of the Chief Trial Counsel will notify the ~~member~~ attorney in writing of the right to request an Early Neutral Evaluation Conference. Either party may request an Early Neutral Evaluation Conference. A party will have 10 days from the date of service of notice to request a conference. To schedule a conference, a requesting party must use the court-approved form located on the court’s website and must submit it to the proper venue by personal delivery, facsimile, email, or mail. In the request, the party must supply multiple dates agreed to by opposing counsel for the conference. Failure to request a conference within that time is deemed a waiver of the right to request a conference. If proper notice is provided, failure to hold a conference will not be a basis for dismissal of a proceeding. A State Bar Court hearing judge will conduct the conference within 15 days of the request.
- (B) **Judicial Evaluation.** At the conference, the judge must give the parties an oral evaluation of the facts and charges and the potential for imposing discipline. If the parties then resolve the matter in a way that requires Court approval, the Office of the Chief Trial Counsel must document the resolution and submit it to the Evaluation judge for approval or rejection.
- (C) **Evidence.** The Office of the Chief Trial Counsel must submit a copy of the draft notice of disciplinary charges, or other written summary to the judge no later than three court days prior to the conference. Failure to do so within the specified time may result in the conference being rescheduled for a later date. The documentation must include the rules and statutes alleged to have been violated by the ~~member~~ attorney, a summary of the facts supporting each

violation, and the Office of the Chief Trial Counsel's settlement position. Each party may submit documents and information to support its position.

(D) Confidentiality. The conference is confidential. A party may designate any document it submits for in camera inspection only.

(E) Trial Judge. Unless otherwise stipulated by the parties, the Early Neutral Evaluation judge cannot be the trial judge in a later proceeding involving the same facts.

Eff. January 1, 2011. Revised: December 21, 2011; January 1, 2019.

Rule 5.31 Change of Counsel of Record

Counsel of record in any proceeding before the court may be changed by any party in the same manner as provided in Code of Civil Procedure § 284, provided that any change of the individual counsel assigned to represent the State Bar in a particular proceeding need not be made by motion but may be made by notice of the name, telephone number, and email address of the new deputy trial counsel, filed with the Clerk and served upon the parties.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1120.

Chapter 2. Pleadings, Motions, and Stipulations

Rule 5.40 General Rules of Pleading

Each assertion in a pleading must be simple, concise, and direct.

Rule 5.41 Notice of Disciplinary Charges

(A) Initial Pleading. A notice of disciplinary charges is the initial pleading in a disciplinary proceeding, unless specified otherwise in the rules.

(B) Contents. The notice of disciplinary charges must:

- (1) cite the statutes, rules, or Court orders that the ~~member~~ attorney allegedly violated or that warrant the proposed action;
- (2) contain facts, in concise and ordinary language, comprising the violations in sufficient detail to permit the preparation of a defense; no technical averments or any allegations of matters not essential to be proved are required;
- (3) relate the stated facts to the statutes, rules, or Court orders that the ~~member~~ attorney allegedly violated or that warrant the proposed action;
- (4) contain a notice that the ~~member~~ attorney may be ordered to pay costs; and

- (5) contain the following language in capital letters at or near the beginning of the notice:

“IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE; AND
- (4) YOU WILL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. (SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.)”

Eff. January 1, 2011. Revised: January 1, 2014.

Rule 5.42 Motions that Extend Time to File Response

- (A) **Motion for Dismissal.** Only a timely motion for dismissal under rule 5.123(B), (C), (D), will automatically extend the time to respond.
- (B) **Time to Respond After Motion.** The party’s obligation to file a response to the notice or pleading begins 10 days after:
- (1) notice or service of the Court’s denial of the motion;
 - (2) proper service of the initial pleading, if the motion was granted under rule 5.124(B); or
 - (3) service of an amended pleading if the motion was granted with leave to file an amended initial pleading under rule 5.124(C).

Rule 5.43 Response to Notice of Disciplinary Charges

- (A) **Time to File Response.** Unless the time is extended by Court order or stipulation, the ~~member~~ attorney must file and serve a written response to the notice of disciplinary charges within 20 days after it is served. Except for motions authorized by rule 5.124(C), demurrers and motions for further particulars are not allowed.
- (B) **Stipulated Extension.** The parties may agree once to extend the time for filing a response by up to 15 days without a Court order. They must file a signed, written stipulation with the Clerk before the original expiration date.
- (C) **Content of Response.** The response must contain an address for service on the ~~member~~ attorney in the proceeding and either:

- (1) a specific admission or specific denial of the allegations in the notice and other facts relevant to a defense; or
 - (2) a plea of nolo contendere, signed by the ~~member~~ attorney and the ~~member's attorney~~ attorney's counsel, stating that the ~~member~~ attorney understands that he or she effectively admits that the facts alleged in the notice are true, and he or she is culpable of the misconduct. The State Bar Court must approve this plea.
- (D) **Default.** If the ~~member~~ attorney fails to file a timely response or move to extend the time to respond, the deputy trial counsel may proceed by default.

Rule 5.44 Amended Pleadings

- (A) **Amending the Initial Pleading Before Response or Default.** The party that began the proceeding may amend its initial pleading once without Court approval before the ~~member~~ attorney files a response or the entry of default. The amended initial pleading must be served under rule 5.25. The time to respond begins when it is served.
- (B) **Amending the Initial Pleading Before Trial Begins.** For good cause, the Court may permit further amendments to the initial pleading. Unless an amendment merely corrects insubstantial errors in the pleading, the party must serve the amended pleading on the opposing party, who must have a reasonable time to file a response and prepare a defense.
- (C) **Amending the Initial Pleading During or After a Contested Trial.** The Court may permit an amendment to the initial pleading. If the pleading is amended to conform to proof of issues raised by the pleadings or to include matters proven by evidence introduced without objection, the opposing parties need not respond. Otherwise, they must have reasonable time to respond to the amendment and prepare a defense.
- (D) **Amending the Initial Pleading After a Default.** The Court will allow substantial amendments to the initial pleading only if it vacates the default. The amended pleading must be served on the opposing parties under rule 5.25.
- (E) **Amending Other Pleadings.** Pleadings other than initial pleadings may be amended once without Court approval if:
- (1) the party amends the pleading before a response is due or served, whichever comes first;
 - (2) a response to the pleading is not allowed, the Court has not set a trial date, and the party amends the pleading within 20 days after service;
 - (3) the party obtains a Court order to amend the pleading for good cause; or
 - (4) the parties stipulate to the amendment.

Rule 5.44.1 Status Conferences

- (A) **Initial Status Conference.** Following the filing of the initial pleading in a proceeding, the assigned judge shall order that a status conference be held in all proceedings. The conference may be held in court or by telephone or by other appropriate means.
- (B) **Subjects Covered by Initial Status Conference.** Parties participating shall be prepared to respond on the subjects specified in any order noticing the conference and, in addition, on the following items:
- (1) Jurisdiction and venue;
 - (2) The substance of the parties' claims and defenses and the definition of genuinely controverted issues;
 - (3) Anticipated motions;
 - (4) Further proceedings, including setting of dates for discovery cut-off, further status conferences, settlement conferences, pretrial and trial, and compliance with rules;
 - (5) Modification of the standard pretrial procedures specified by this rule on account of the relative simplicity or complexity of the proceeding;
 - (6) Prospects for settlement; and
 - (7) Any other matters which may be conducive to the just, efficient, and economical determination of the proceeding.
- (C) **Additional status conferences.** Upon request of any party, or upon the assigned judge's own motion, additional status conferences may be held at anytime.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1210.

Rule 5.45 Motions

- (A) **Written Motions.** Unless the Court orders otherwise, all motions must be written.
- (B) **Time for Response.** Unless these rules provide otherwise, an opposing party must file and serve a written response within 10 days after a motion is served.
- (C) **Factual Support.** Except for facts already in the record or subject to judicial notice and exhibits already admitted in evidence, facts relied on or exhibits submitted to support or oppose a motion must be supported or authenticated by a declaration.
- (D) **Hearing.** Unless otherwise ordered, written motions are submitted without hearing.

Rule 5.46 Disqualifying a Judge

- (A) **Disqualification under CCP § 170.1.** When Code of Civil Procedure § 170.1 applies, the judge must be disqualified.
- (B) **Judge Pro Tempore.** A judge pro tempore must be disqualified if the judge pro tempore or the judge pro tempore's office is affiliated with or represents:
 - (1) a party to pending litigation that involves any party, counsel, or law office affiliated with any party or counsel; or
 - (2) a party represented by any party, counsel, or law office affiliated with any party or counsel.
- (C) **Applicable Provisions; Recusal.** Only the provisions of Code of Civil Procedure §§ 170.1, 170.2, 170.3(b), 170.4, and 170.5(b)–(g) apply to judicial disqualification in State Bar Court proceedings.
- (D) **Notice of Recusal.** Judges who recuse themselves must promptly give notice of the recusal to the judge who has authority to assign the matter to another judge.
- (E) **Review of Stipulation.** An assigned judge's consideration or rejection of a stipulation in a proceeding is not a basis to disqualify the judge from the proceeding.
- (F) **Settlement Judge.** Unless the parties stipulate otherwise, a settlement judge is disqualified from presiding over the trial of the matter.
- (G) **Proceeding Involving Relief from Default.** When a party seeks relief from default, the judge may not be disqualified on the basis that the judge heard evidence or filed a decision before the party filed the motion for relief.
- (H) **Motion to Disqualify.** If a judge refuses or fails to disqualify himself or herself, any party may file a motion to disqualify. The motion must contain a verified statement setting forth the facts constituting the grounds for disqualification. Copies of the motion must be served on the opposing party and must be personally served upon the judge the party seeks to disqualify or on his or her case administrator if the judge is present in the State Bar's office or in chambers.
- (I) **When to File Motion.** If the party seeking disqualification did not know the matter was assigned to the judge or of the ground for disqualification in time to file the motion under the other provisions of this rule, the party must file the motion promptly and make an oral motion when the next hearing, trial, conference, or argument begins. Otherwise, a party must move to disqualify within the earliest of:
 - (1) 10 days after the party or the party's counsel learns of the ground for disqualification;
 - (2) before the trial begins; or
 - (3) 20 days before oral argument is held before the Review Department.

- (J) **Consent or Answer to Motion.** After a motion to disqualify is filed, the judge may:
- (1) consent to disqualification within 10 days after the motion is served and promptly notify the judge who has authority to assign the matter to another judge;
 - (2) file a verified answer within 10 days after the motion is served, admitting or denying any or all of the allegations in the motion and setting forth any additional facts material or relevant to the question of disqualification, and the Clerk must transmit a copy of the judge's answer to each party; or
 - (3) fail to expressly consent or timely answer, in which case the judge's consent to disqualification is presumed, and the Clerk must promptly notify the judge who has authority to assign the matter to another judge.
- (K) **Ruling on Disqualification.** A judge who refuses to recuse himself or herself may not rule on his or her own disqualification. The presiding or supervising judge must assign a judge other than the challenged judge to decide the motion. If the judge hearing the motion decides that the judge is disqualified, the judge must promptly notify the judge who has authority to assign the matter to another judge.
- (L) **Petition for Review.** A ruling on a motion for disqualification is reviewable under rule 5.150. The party must file the petition within 10 days of service of the ruling. The Review Department must expedite action on the petition.

Eff. January 1, 2011. Revised July 1, 2014; January 1, 2019.

Rule 5.47 Consolidation

- (A) **Motion to Consolidate.** The Court may order consolidation on any party's motion, the parties' stipulation, or the Court's own motion with notice to the parties and an opportunity to be heard.
- (B) **When to File a Motion to Consolidate.** A party must file the motion within 30 days after the notice of disciplinary charges or other initial pleading is filed in the most recent of the proceedings the party seeks to consolidate.
- (C) **Consolidation Generally.** The judge may order proceedings consolidated if consolidation will not prejudice any substantial rights of any party or cause undue delay of any matter. The judge may order proceedings involving different ~~members~~ attorneys but common questions of fact consolidated for all purposes, including the purposes of joint hearing or joint trial.
- (D) **Consolidation Not Allowed.** Proceedings in the Hearing Department may not be consolidated with proceedings in the Review Department. But the Presiding Judge may order a proceeding in the Review Department

remanded to the Hearing Department for a ruling on whether consolidation is appropriate.

- (E) **Consolidation Across Venues.** The Court must grant a motion for transfer of venue before the party may seek to consolidate proceedings pending in different venues.

Rule 5.48 Severance

- (A) **Motion for Severance.** The Court may order severance on any party's motion, the parties' stipulation, or the Court's own motion. The Court must provide notice to the parties and allow them an opportunity to be heard.
- (B) **Time to File Motion for Severance.** A party must file a motion to sever as soon as practical.
- (C) **Grounds for Severance.** The Court may order a proceeding severed for the convenience of the parties, to avoid substantial prejudice to any party, or when conducive to expedition and economy.

Rule 5.49 Continuances

- (A) **General Policy.** Continuances are disfavored. Dates set for all settlement conferences, hearings and oral arguments shall be firm and must be regarded by counsel as required court appointments. Stipulations for continuance require court approval.
- (B) **Ruling on Motion for Continuance.**
 - (1) **Hearing Department.** Any motion for or stipulation to a continuance filed in the Hearing Department shall be ruled on by the assigned judge. In unusual or urgent circumstances, the Supervising Judge may grant a continuance if the assigned judge is unavailable.
 - (2) **Review Department.** Any motion for continuance of oral argument in the Review Department shall be ruled on by the Presiding Judge.
- (C) **Showing Required; Factors Considered.** A continuance will be granted only upon an affirmative showing of good cause requiring the continuance. In general, the necessity for the continuance should have resulted from an emergency occurring after the setting of the settlement conference, hearing, or oral argument date that could not have been anticipated or avoided with reasonable diligence and cannot now be properly provided for other than by the granting of a continuance. In ruling on a motion for a continuance, the court will consider all matters relevant to a proper determination of the motion, including:

- (1) The court's file in the case and any supporting declarations concerning the motion;
- (2) The diligence of counsel, particularly in bringing the emergency to the court's attention and to the attention of opposing counsel at the first available opportunity and in attempting to otherwise meet the emergency;
- (3) The nature of any previous continuances, extensions of time, or other delay attributable to any party;
- (4) The proximity of the settlement conference, hearing, or oral argument date;
- (5) The condition of the court's calendar and the availability of an earlier settlement conference, hearing, or oral argument date if the matter is ready;
- (6) Whether the continuance may properly be avoided by substitution of attorneys or witnesses, use of depositions in lieu of oral testimony, or trailing the matter for settlement conference, hearing, or oral argument;
- (7) Whether the interests of justice are best served by granting a continuance, by holding the settlement conference, hearing, or oral argument of the matter, or by imposing conditions on a continuance;
- (8) The court's time pendency guidelines;
- (9) Whether the party requesting the continuance failed to appear at any hearing or settlement conference; and
- (10) Any other fact or circumstance relevant to a fair determination of the motion.

Eff. January 1, 2011; Revised January 1, 2019.
Source: State Bar Ct. Rules of Prac., rule 1131.

Rule 5.50 Abatement

- (A) **Motion for Abatement.** On any party's motion or on its own motion after notice to the parties, the Court may abate any proceeding in whole or in part. Abatement stays the proceeding in the State Bar Court and tolls all time limitations in the proceeding, but the Court may grant a motion for perpetuation of evidence.
- (B) **Relevant Factors.** The Court may consider any relevant factor to determine a motion under this rule, including the need to dispose of the proceeding at the earliest time and the extent to which:
 - (1) the issues in the proceeding are substantially the same as in a related proceeding;
 - (2) the proceeding would probably be delayed by waiting for the trial or an appeal in a related proceeding;
 - (3) the proceeding would probably be expedited by waiting for the disposition in a related proceeding;

- (4) evidence to be adduced in a related proceeding would aid in determining the proceeding;
 - (5) evidence may become unavailable because of any delay;
 - (6) parties, witnesses, or documents are currently unavailable for reasons beyond the parties' control;
 - (7) a party or witness may be prejudiced in a related proceeding by delaying or proceeding with further action; and
 - (8) a Client Security Fund claim would be unnecessarily delayed.
- (C) **Related Proceeding.** "Related proceedings" means a civil, criminal, administrative, or State Bar Court proceeding that involves the same subject matter or in which a party, real party in interest, or witness in one proceeding is also a party or witness in another proceeding.
- (D) **Requests for Information.** The court may at any time require any party to furnish information concerning an abated proceeding. The court may also order the parties to appear at a conference concerning the abated proceeding.
- (E) **Termination of Abatement.**
- (1) Any party may, by motion, seek an order terminating an abatement; and the court on its own motion may terminate an abatement after affording the parties prior notice of its intent to do so and an opportunity to respond to the notice of intent to terminate abatement.
 - (2) The abatement of all proceedings involving the same ~~member~~ attorney shall be terminated automatically upon the ~~member's~~ attorney's
 - (a) withdrawal of a resignation with charges pending, or
 - (b) transfer to active enrollment following prior transfer to inactive enrollment pursuant to Business and Professions Code section 6007.
- (F) **Review.** A court's ruling on a motion for abatement is reviewable under rule 5.150.

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.51 Mental Incapacity

- (A) **Generally.** When a Court of record has judicially declared a ~~member~~ an attorney to be mentally incompetent, no disciplinary proceeding may be initiated against the ~~member~~ attorney until judicially determined competent.
- (B) **Abatement.** The Court may order any pending disciplinary proceeding abated for any time and on terms it finds proper if the ~~member~~ attorney is unable – or there is probable cause to believe that the ~~member~~ attorney is unable – to assist in or conduct a defense because of mental illness or infirmity.

Rule 5.52 Military Service

The Court must abate a proceeding when the ~~member~~ attorney who is the proceeding's subject is on active duty in the armed forces of the United States and unable to participate in the proceeding.

Rule 5.52.1 Settlement Conference

At any time after a proceeding has been initiated, any party may request a settlement conference or the court may order one on its own motion. The respondent, applicant or petitioner, whether or not represented by counsel, shall attend the conference unless excused by the court. Counsel appearing at the conference shall be the counsel who will try the case and shall have full authority to settle the matter at the settlement conference, or have access to a person with full authority to settle the matter at that settlement conference, who must be identified at the outset of the conference.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1230.

Rule 5.52.2 Settlement Conference Judge

Settlement conferences will be held before a judge other than the assigned judge. If all parties so stipulate, the assigned judge may conduct the settlement conference. A party's request for a settlement conference may request a specific settlement conference judge. If the parties have agreed to request a specific settlement conference judge, the request for a settlement conference shall so state.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1231.

Rule 5.52.3 Notice of Designation of Settlement Judge

Unless otherwise ordered by the court, if the settlement conference is not conducted by the assigned judge, the Clerk shall notify all parties in writing of the name of the judge designated to conduct the settlement conference no later than 10 days prior to the date of the settlement conference.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1232.

Rule 5.52.4 Meet and Confer

The parties shall meet and confer in person or by telephone prior to the settlement conference. If the parties have developed positions concerning settlement offers, they shall be communicated orally or in writing at this time.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1233.

Rule 5.52.5 Settlement Conference Statements

Each party shall lodge with the court, but not file, a settlement conference statement at least five days before a scheduled settlement conference. The statement must be clearly marked as such, may be in letter form, must indicate in the heading the date and time of the scheduled settlement conference, and must be addressed to the settlement conference judge. Settlement conference statements may, but are not required to, be served on the opposing party. Failure to submit a timely settlement conference statement may result in the rescheduling or cancellation of the settlement conference.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1234.

Rule 5.52.6 Confidentiality of Settlement Conferences

If a settlement conference does not result in a settlement, no reference shall be made nor consideration given in any subsequent aspect of any proceeding to the content of settlement discussions or written statements made in connection with the settlement conference or the parties' meeting and conferring process leading up to the settlement conference.

Eff. Revised January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1235.

Rule 5.53 Stipulations Generally

If practical, all parties must try to make pretrial stipulations about some or all the issues. Each party and each party's counsel must sign all stipulations.

Rule 5.54 Stipulations to Facts Only

- (A) **Required Elements.** Stipulations to facts only must comprise:
- (1) an acknowledgement that the stipulations to facts are binding on all parties, and
 - (2) a statement that the ~~member~~ attorney either admits the truth of the facts in the stipulation or pleads nolo contendere to those facts. If the ~~member~~ attorney pleads nolo contendere, the stipulation must show that the ~~member~~ attorney understands that the Court will use the stipulated facts to determine whether the ~~member~~ attorney is culpable of professional misconduct and treat the plea as an admission that the stipulated facts are true.
- (B) **Effect at Trial.** Evidence to prove or disprove a stipulated fact is inadmissible.
- (C) **Relief from Stipulation.** The Court must approve a motion or stipulation for relief from stipulations of facts. The motion or stipulation must show that the relief is necessary for extraordinary reasons but cannot include evidence to prove or disprove a stipulated fact.

Rule 5.55 Stipulations to Facts and Conclusions of Law

- (A) **Generally.** The parties in a disciplinary matter may stipulate to facts and conclusions of law regarding culpability but reserve the question of disposition.
- (B) **Required Elements.** A proposed stipulation to facts and conclusions of law must comprise:
- (1) a statement of the investigations or proceedings included;
 - (2) the ~~member's~~ attorney's acknowledgement of acts or omissions that are cause for discipline;
 - (3) conclusions of law drawn from, and specifically referring to, the admitted facts regarding the ~~member's~~ attorney's culpability;
 - (4) a statement that the ~~member~~ attorney either:
 - (a) admits the truth of the facts comprising the stipulation and admits culpability for misconduct; or
 - (b) pleads nolo contendere to those facts and misconduct;
 - (5) an enumeration of any charges to be dismissed;
 - (6) a statement of the extent to which the stipulation resolves the proceeding;
 - (7) the ~~member's~~ attorney's acknowledgement of Business and Professions Code §§ 6086.10 and 6140.7;
 - (8) a statement that the parties will or will not be bound by the stipulated facts even if the conclusions of law are rejected and regardless of the degree of discipline recommended or imposed; and
 - (9) a statement that the ~~member~~ attorney has been advised in writing of any pending investigations (except for any law enforcement agencies' criminal investigations) or proceedings not resolved by the stipulation.
- (C) **Plea of Nolo Contendere.** If the ~~member~~ attorney pleads nolo contendere, the stipulation must show that the ~~member~~ attorney understands that the plea is treated as an admission of the stipulated facts and an admission of culpability.
- (D) **Unresolved Pending Investigations and Proceedings.** These must be identified by investigation case number or proceeding case number and any complaining witness's name. The stipulation cannot contain the information but must show that all the information was provided to the ~~member~~ attorney in a separate document within 30 days before the stipulation was filed.
- (E) **Partial Stipulation.** Partial stipulations to facts concerning aggravation and mitigation are allowed. The parties may waive an evidentiary hearing on these issues by submitting a stipulation containing a complete statement of aggravating and mitigating circumstances.

Rule 5.56 Stipulations to Facts, Conclusions of Law, and Disposition

(A) Contents. A proposed stipulation to facts, conclusions of law, and disposition must comprise:

- (1) an acknowledgement that proposed stipulations for disposition do not bind the Supreme Court;
- (2) a statement of the investigations or proceedings included;
- (3) the ~~member's~~ attorney's acknowledgement of acts or omissions that are cause for discipline;
- (4) conclusions of law drawn from, and specifically referring to, the admitted facts regarding the ~~member's~~ attorney's culpability;
- (5) a statement that the ~~member~~ attorney either:
 - (a) admits the truth of the facts comprising the stipulation and admits culpability for misconduct; or
 - (b) pleads nolo contendere to those facts and misconduct;
- (6) the deputy trial counsel's statement, if requested by the Court, that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter;
- (7) an enumeration of any charges to be dismissed;
- (8) a statement of the extent to which the stipulation resolves the proceeding;
- (9) a statement of aggravating and mitigating circumstances;
- (10) the recommended disposition;
- (11) the ~~member's~~ attorney's acknowledgement of Business and Professions Code §§ 6086.10 and 6140.7;
- (12) a statement that the parties will or will not be bound by the stipulated facts even if the conclusions of law and/or stipulated disposition are rejected; and
- (13) a statement that the ~~member~~ attorney has been advised in writing of any pending investigations (except for any law enforcement agencies' criminal investigations) or proceedings not resolved by the stipulation.

(B) Plea of Nolo Contendere. If the ~~member~~ attorney pleads nolo contendere, the stipulation must also show that the ~~member~~ attorney understands that the plea is treated as an admission of the stipulated facts and an admission of culpability.

(C) Unresolved Pending Investigations or Proceedings. These must be identified by investigation case number or proceeding case number and any complaining witness's name. The stipulation cannot contain the information but must show that all the information was provided to the ~~member~~ attorney in a separate document within 30 days before the stipulation was filed.

Rule 5.57 Stipulations to Disposition

(A) Generally. The parties may stipulate to disposition after the Court decides – or the parties stipulate to – facts establishing culpability and conclusions of law.

- (B) **Attachments.** If the stipulation to disposition is supported by any factual findings or legal conclusions that are not in a written decision filed by the Court or a previously filed stipulation, those findings and conclusions must be included in, or attached to, the stipulation to disposition.
- (C) **Required Elements.** Stipulations to dispositions must comprise:
- (1) an acknowledgement that proposed stipulations for disposition do not bind the Supreme Court;
 - (2) a statement of the investigations or proceedings included;
 - (3) a statement of the extent to which the stipulation resolves the proceeding;
 - (4) all factual stipulations regarding aggravation or mitigation that the parties wish to rely on;
 - (5) the recommended or imposed disposition;
 - (6) the ~~member's~~ attorney's acknowledgement of Business and Professions Code §§ 6086.10 and 6140.7;
 - (7) a statement that the parties will or will not be bound by the stipulated facts even if the conclusions of law and/or stipulated disposition are rejected; and
 - (8) a statement that the ~~member~~ attorney has been advised in writing of any pending investigations (except for any law enforcement agencies' criminal investigations) or proceedings not resolved by the stipulation.
- (D) **Unresolved Pending Investigations or Proceedings.** These must be identified by investigation case number or proceeding case number and any complaining witness's name. The stipulation cannot contain the information but must show that all the information was provided to the ~~member~~ attorney in a separate document within 30 days before the stipulation was filed.

Rule 5.58 Approval of Stipulations by a Hearing Judge

- (A) **When Approval Is Required.** Court approval is not required for stipulations to facts under rule 5.54, unless the ~~member~~ attorney has pleaded nolo contendere to those facts. Court approval is required for stipulations under rules 5.55, 5.56, and 5.57. The assigned judge must determine whether the stipulation is fair to the parties and adequately protects the public.
- (B) **Adequate Factual Basis.** If a stipulation is supported by the deputy trial counsel's statement under rule 5.56(A)(6), it is supported by an adequate factual basis, and no further evidence of the underlying facts will be required.
- (C) **Voluntary Stipulations.** A stipulation that satisfies the requirements of rules 5.54, 5.55, 5.56, or 5.57 is considered voluntary.
- (D) **Approval.** The Court may approve the stipulation as written or on condition that the parties accept specified modifications, or the Court may reject the stipulation.

- (E) **When Binding.** After Court approval, a stipulation binds the parties in the related proceedings unless the stipulation is withdrawn or modified.
- (F) **Withdrawal and Modification.** Any party may make a motion to withdraw or modify a stipulation. The motion must show good cause and be filed within 15 days after the order approving the stipulation is served. The Court may give notice to the parties and withdraw or modify a stipulation on its own motion.
- (G) **Effects of Rejection.** When the Court rejects a stipulation, the parties are relieved of the effects of the stipulation, except the factual stipulations they agreed to be bound by. The parties may submit a later stipulation in the same case but must inform the Court that an earlier stipulation was rejected.
- (H) **Review.** Only orders on motions to modify or withdraw from a stipulation are reviewable and only under rule 5.150.

Chapter 3. Subpoenas and Discovery

Rule 5.60 Investigation Subpoenas

- (A) **Issuing a Subpoena.** In the conduct of investigations, the Office of the Chief Trial Counsel may compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the investigation under Business and Professions Code §§ 6049(b) and 6069.
- (B) **Motion to Quash.** Any person or entity who is served with an investigation subpoena may move to quash the subpoena under Business and Professions Code § 6051.1 and this rule.
- (C) **Service of a Motion to Quash.** The motion must be filed with the State Bar Court and must be served on the designated State Bar investigator, deputy trial counsel, or other authorized agent requesting the records. If the subpoena does not designate a party for service, the motion must be served on the Chief Trial Counsel.
- (D) **Permissible Grounds for a Motion to Quash.** The motion must be supported by one or more declarations based on personal knowledge and filed with the motion.
- (E) **Trust Account Financial Records.** The sole basis for a motion to quash a trust account financial records subpoena is that the records sought are not trust account financial records that the ~~member~~ attorney must maintain under the Rules of Professional Conduct.
- (F) **Other Financial Records.** If the challenged subpoena seeks financial records other than trust account financial records, and if a party makes a motion to quash the subpoena under this rule, the records sought cannot be

examined by any party until the Court rules on the motion. Grounds for a motion to quash are:

- (1) the subpoena does not comply with applicable statutes or State Bar rules governing the issuance or scope of financial record subpoenas;
- (2) the subpoena does not describe the records sought with particularity;
- (3) the subpoena was not properly served under Business and Professions Code § 6069(b); or
- (4) the scope of the records the subpoena seeks is not consistent with the scope and requirements of the investigation.

(G) Non-Financial Records. For a subpoena that seeks documents other than financial records, grounds for a motion to quash are:

- (1) the subpoena does not comply with applicable statutes or State Bar rules governing the issuance or scope of subpoenas;
- (2) the subpoena does not describe the records sought with particularity;
- (3) the subpoena was not properly served under Code of Civil Procedure § 1987; or
- (4) the scope of the records the subpoena seeks is not consistent with the scope and requirements of the investigation.

(H) Court Records. If a subpoena is issued to obtain public records from any court, the Office of the Chief Trial Counsel need not serve the subpoena on the target of an investigation or on other parties to a State Bar Court proceeding.

Rule 5.61 Discovery Subpoenas and Depositions

(A) No Discovery Subpoenas. Except as otherwise provided by these rules, no party may issue subpoenas in the course of discovery, or to compel another party to testify at a deposition, without prior Court order.

(B) Issuing a Subpoena. Upon a motion and showing of good cause, the Court may order the issuance of a subpoena during discovery and limit the nature and scope of the subpoena.

(C) Depositions to Perpetuate Testimony. The Court may order the taking of the deposition of any person upon a showing by the party requesting the deposition that the proposed deponent is a material witness who is unable or cannot be compelled to attend the hearing. If a deposition is ordered, the procedures stated in Government Code § 68753 shall be followed. Depositions to perpetuate testimony may be videotaped.

(D) Limitations. Code of Civil Procedure § 2017.220 applies to complaining witnesses and alleged victims of misconduct in any proceeding arising from a member's an attorney's criminal conviction for sexual misconduct or to hear a charge of violating Business and Professions Code § 6106.9 or rule 3-120 of the Rules of Professional Conduct.

Rule 5.62 Trial Subpoenas

- (A) **Who May Issue a Subpoena.** Any party may issue trial subpoenas under Business and Professions Code §§ 6049(c) and 6085 and Code of Civil Procedure § 1985. And any party may compel another party to testify or produce documents at trial by serving a notice to appear under Code of Civil Procedure § 1987.
- (B) **Service.** Subject to possible reimbursement of costs under rules 5.129–5.132, the party issuing a trial subpoena must:
 - (1) serve a copy of the subpoena on the persons or entities required;
 - (2) obtain proper proof of service; and
 - (3) pay witness fees or expenses.
- (C) **Additional Copy of Records.** The party serving a trial subpoena duces tecum may ask the subpoenaed party to provide an additional unsealed copy of the requested records if the requesting party gives notice to all other parties. If the subpoenaed party files a timely motion to quash the subpoena, the requesting party may not inspect, copy, or use the records except as permitted by Court order. Within five days after receiving the additional unsealed copy or the Court's permission, the requesting party must also provide all other parties with accurate copies of the records or with a reasonable opportunity to inspect and copy them.

Rule 5.63 Proceedings on Motion to Quash Subpoena

- (A) **Generally.** A motion to quash a subpoena must be filed and served under the Code of Civil Procedure.
- (B) **Jurisdiction.** The judge assigned to the proceeding may decide a motion to quash a discovery or trial subpoena.
- (C) **Hearing.** The Court may hold a hearing on the motion. A hearing must be expedited.
- (D) **Order.** An order on the motion must include findings on any factual issues the motion presents and state the reasons for the order.
- (E) **Stay of Compliance.** If the motion to quash seeks a stay of compliance with the subpoena pending the Court's ruling on the motion, and good cause is shown, the Court may grant a stay before a response is filed.
- (F) **Review of Motion to Quash.** A hearing judge's order is reviewable under rule 5.150. The order may be reversed only if the hearing judge's factual findings are not supported by substantial evidence, for error of law, or for abuse of discretion.

Rule 5.64 Approved Subpoena Forms

- (A) **Generally.** Parties may use subpoena forms approved by the Judicial Council of California.
- (B) **Issuance.** Parties may obtain subpoena forms from the Clerk. On request, the Clerk will issue subpoenas on behalf of parties appearing in propria persona who are not entitled to practice law in California.
- (C) **Definitions of Terms.** Unless the context or subject matter shows differently, terms used in the Judicial Council Subpoena forms have these meanings:
 - (1) “The People of the State of California” includes the State Bar of California;
 - (2) “Superior Court of California” includes the State Bar of California for the limited purpose of issuing subpoenas; and
 - (3) “Requests for Accommodations” are requests for accommodations under the State Bar of California’s Accommodations Request Procedure.

Rule 5.65 Discovery Procedures

- (A) **Generally.** The procedures in this rule constitute the exclusive procedures for discovery. No other form of discovery is permitted without prior Court order under rules 5.66 or 5.68.
- (B) **Timing of Discovery Requests.** All requests for discovery must be made in writing and served on the other party within 10 days after service of the answer to the notice of disciplinary charges, or within 10 days after service of any amendment to the notice.
- (C) **Scope of Discovery.** Upon request, a party must provide to the other party:
 - (1) The name, address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its allegations or defenses, including in mitigation and aggravation;
 - (2) The name (and, if not previously provided, the address and telephone number) of each individual the disclosing party then intends to call as a witness, including expert witnesses and those it may call if the need arises, including in mitigation and aggravation;
 - (3) A copy – or description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its allegations or defenses, including in mitigation and aggravation.

This includes:

 - (a) all statements about the subject matter of the proceedings, including any impeaching evidence, made by any witness then intended to be called or may be called if the need arises by the disclosing party;

- (b) all statements about the subject matter of the proceedings made by a person named or described in the notice, or amendment to the notice, other than the ~~member~~ attorney when it is claimed that an act or omission of the ~~member~~ attorney as to the person named or described is a basis for the discipline proceeding;
- (c) all investigative reports made by or on behalf of the disclosing party about the subject matter of the proceeding;
- (d) all reports of mental, physical, and blood examinations then intended to be offered in evidence by the disclosing party.

- (D) Definition of Statement.** For purposes of these procedures, statement means either:
- (1) a written statement that the person has signed or otherwise adopted or approved; or
 - (2) a contemporaneous stenographic, mechanical, electrical, or other recording – or a transcription of it – that recites substantially verbatim the person’s oral statement.
- (E) Form and Time of Response.** All responses under subdivision (C) must be in writing, signed and served within 20 days after service of the request. All documents and tangible things described but not served with the responses must be made available for inspection and copying by the requesting party within the same time period.
- (F) Basis for Initial Disclosure; Unacceptable Excuses.** A party must make its disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party’s disclosures or because another party has not made its disclosures.
- (G) Continuing Duty.** If a party receives a written request for discovery, the party receiving the request has a continuing duty to provide discovery of items listed in the request until proceedings before the Court are concluded. When a written request for discovery is made in accordance with these rules, discovery must be provided within a reasonable time after any discoverable items become known to the party obligated to provide discovery.
- (H) Failure to Comply with Discovery Request.**
- (1) Inadmissible. If any party fails to comply with a discovery request as authorized by these procedures, the items withheld are inadmissible or, if the items have been admitted into evidence, may be stricken from the record. If testimony is elicited during direct examination and the party eliciting the testimony withheld any statement of the testifying witness in violation of these discovery procedures, the testimony may be ordered stricken from the record.
 - (2) Reasonable Continuance. Upon a showing of good cause for failure to comply with a discovery request, the Court may admit the items withheld or direct examination testimony of a witness whose statement

was withheld upon condition that the party against whom the evidence is sought to be admitted is granted a reasonable continuance to prepare against the evidence, or may order the items or testimony suppressed or stricken from the record.

(I) Privileged or Protected Material.

- (1) Applicable. Nothing in these procedures authorizes the discovery of any writing or thing which is privileged from disclosure by law or is otherwise protected. Statements of any witness interviewed by the deputy trial counsel, by any investigators for either party, by the ~~member attorney~~, or by the ~~member's attorney~~ attorney's counsel are not protected as work product.
- (2) Information Withheld. When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or otherwise protected, the party must make the claim expressly and must describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable the other party to assess the applicability of the privilege or protection.

(J) Protective Orders. The Court may, upon application supported by a showing of good cause, issue protective orders to the extent necessary to maintain in effect such privileges and other protections as are otherwise provided by law.

(K) Discovery requests. Requests served upon an opposing party, as opposed to motions to compel discovery, must not be filed with the court unless attached as an exhibit to a motion.

Eff. January 1, 2011. Revised July 1, 2014; January 1, 2019.

Rule 5.65.1 Expert Disclosure / Discovery

Unless otherwise ordered by the court, each case is to be treated as though each side has made a timely and valid demand for the exchange of information concerning expert witnesses pursuant to Code of Civil Procedure (CCP) § 2034.210 et seq., including demands for production of documents and to take the deposition of all disclosed experts, and is subject to the following procedures and deadlines:

- (A)** The date for the exchange of expert information will be the last court day at least 50 days prior to the first scheduled trial date in the case. At the time of such exchange, any party wishing to call or question a witness as an expert witness for purposes of the trial of this matter must disclose in writing the name of each such witness. Such disclosure shall include for each such witness, all of the information specified in CCP § 2034.260 and copies of all of the documents described in CCP § 2034.270. If a party does not intend to offer expert testimony at trial at the time of this initial disclosure deadline, such party shall nonetheless comply with CCP §

2034.260(b)(2) by providing a written statement that such party does not presently intend to offer the testimony of any expert witness.

- (B) On or before 30 days prior to the first scheduled trial date in the case, a party may disclose a rebuttal expert to an expert disclosed by the other side, as provided in CCP § 2034.280.
- (C) All parties are authorized to take the deposition of any disclosed expert witness pursuant to the provisions of CCP §§ 2034.410–2034.470. However, any such deposition must be completed by the close of business 10 days prior to the scheduled trial date in the case.
- (D) The expert disclosures made by any party pursuant to CCP §§ 2034.260 and/or 2034.280 (but not the materials produced pursuant to CCP § 2034.270) must be served on the opposing party and filed with this court on or before the respective deadlines for such disclosures, as set forth above.
- (E) Failure to comply with the provisions of this order, including the referenced sections, may result in the exclusion at trial of proffered expert testimony.

Eff. January 1, 2019.

Rule 5.66 Motion to Request Other Discovery

- (A) **Generally.** Upon a motion and showing of good cause, the Court may order additional discovery.
- (B) **Timing and Support.** The motion must be filed no later than 45 days after service of the answer to the notice of disciplinary charges. The motion must be supported by one or more declarations describing the nature and scope of the requested discovery, its relevancy to the allegations or defenses, and the proposed completion date.
- (C) **Time for Response.** An opposing party must file and serve a written response within five days after a motion is served.
- (D) **Ruling.** The Court may deny the motion if it determines that:
 - (1) The discovery sought is irrelevant to the allegations or defenses at issue;
 - (2) The discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome or less expensive;
 - (3) The party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or
 - (4) The burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the importance of

the issues at stake in the proceeding, and the importance of the proposed discovery in resolving the issues.

Rule 5.67 Prohibited Discovery

The deliberations of judges or others responsible for adjudicating attorney disciplinary or regulatory matters are exempt from discovery.

Rule 5.68 Physical and Mental Examinations

- (A) **State Bar's Motion for Examination.** When ~~a member's~~ an attorney's mental or physical condition is at issue, the State Bar may move for an order requiring the ~~member~~ attorney to undergo a mental or physical examination under Business and Professions Code § 6053. The motion and supporting evidence must show good cause for the examination. The motion must specify the manner, conditions, scope, and nature of the requested examination.
- (B) **Court's Order to Show Cause.** On its own motion, the Court may order the parties to show cause why it should not order the ~~member's~~ attorney's mental or physical examination under Business and Professions Code § 6053. The order must specify the manner, conditions, scope, and nature of the proposed examination, and give the parties at least 10 days after the order is served to file a response.
- (C) **Filing Restriction.** When probable cause has been found to issue a notice to show cause regarding ~~a member~~ an attorney under Business and Professions Code § 6007(b)(3), a motion for examination or an order to show cause may be filed only in an involuntary inactive enrollment proceeding.
- (D) **Hearing.** The Court may hold a hearing to determine whether the need for the examination outweighs the ~~member's~~ attorney's right to privacy. If so, the Court's order must include appropriate limitations or conditions to minimize the intrusiveness of the examination.
- (E) **Selecting a Physician or Psychiatrist.** An order must provide for selecting the physician or psychiatrist who will perform the examination, and must specify the examination's manner, conditions, scope, and nature. With Court approval, the parties may stipulate to have an examination conducted by a qualified expert other than a physician or psychiatrist.
- (F) **Stipulation.** The parties may stipulate to an order for a physical or mental examination that specifies the examination's manner, conditions, scope, and nature, and the party or parties who will pay for the examination. The parties may ask the Court to appoint a specified physician or psychiatrist or other qualified expert to conduct the examination or may ask the Court to select a physician or psychiatrist.

- (G) **Costs.** Unless the Court orders or a stipulation specifies otherwise, the party seeking the examination must pay the cost.
- (H) **Appointment of Counsel.** When a motion is filed or an order to show cause is issued, the Court may appoint counsel to represent the ~~member~~ attorney regarding the motion or order. Rule 5.192 governs the appointment and compensation of counsel.

Rule 5.69 Motions to Compel Discovery and Sanctions

- (A) **Informal Resolution of Issues.** A party must make a reasonable and good faith attempt to informally resolve any issue before filing a motion to compel compliance with discovery requests. A declaration stating facts showing that the party made the attempt must accompany the motion.
- (B) **Motion to Compel Compliance with Discovery Requests.** A party may move to compel compliance with discovery requests within 15 days after the date on which the discovery response was due or served.
- (C) **Discovery Sanctions.** The Civil Discovery Act's provisions about misuse of the discovery process and permissible sanctions (except provisions for monetary sanctions and the arrest of a party) apply in State Bar Court proceedings. The Court may not order dismissal as a discovery sanction without considering the effect on the protection of the public.
- (D) **Format of Discovery Motions**
 - (1) **Motion to Compel.** A motion to compel further responses to interrogatories, inspection demands, or admission requests and a motion to compel answers to questions propounded at a deposition or to compel production of documents or tangible things at a deposition must be accompanied by a declaration which sets forth each interrogatory, item or category of items, request, question, or document or tangible thing to which further response, answer, or production is requested, the response given, and the factual and legal reasons for compelling it. Material must not be incorporated by reference, except that in the separate document the moving party may incorporate identical responses and factual and legal reasons previously stated in that document. No other statements or summaries shall be required as part of this motion.
 - (2) **Identification of Interrogatories, Demands, or Requests.** A motion for further responses concerning interrogatories, inspection demands, or admission requests must identify the interrogatories, demands, or requests by set and number.
 - (3) **Reference to Other Responses.** If the response to a particular interrogatory is dependent on the response given to another interrogatory, or if the reasons a further response to a particular interrogatory is deemed necessary are based on the responses to

some other interrogatory, the other interrogatory and its response must be set forth.

- (4) **Reference to Other Documents.** If the pleadings, other documents in the file, or other items of discovery are relevant to the motion, the party relying on them must summarize each relevant document.
- (5) **Failure to Respond to Discovery Requests.** Compliance with subparagraphs (A) through (D) of this rule is not necessary where the opposing party has failed to respond to the discovery request

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.70 Contempt Proceedings

- (A) **Motion to Report Contempt to the Superior Court.** When a subpoena requires a witness to appear and give testimony or to produce books, papers, or documents, and the witness refuses to do so or refuses to answer pertinent and proper questions, the party by whom or upon whose behalf the subpoena was issued may ask the Court to report to the superior court that a subpoenaed witness is in contempt of the subpoena under Business and Professions Code § 6051.
- (B) **Party's Report of Contempt to Superior Court.** A party may report contempt without making a motion if authorized under Business and Professions Code § 6051.
- (C) **Court's Report of Contempt to Superior Court on Motion.** If it appears that the subpoena was properly issued and served and that there is no valid legal basis for the witness's noncompliance, then on a party's motion, the Court will report the witness's contempt to the appropriate superior court.
- (D) **Superior Court Proceeding.** After the Court reports the contempt, the party by whom or upon whose behalf the subpoena was issued may bring a proceeding in the appropriate superior court under Business and Professions Code § 6051. The report of contempt, including its findings and conclusions, is not binding on the superior court.

Rule 5.71 Discovery Review

Within 10 days after notice of a discovery ruling by a hearing judge is served, a party may serve and file a petition for review of the ruling under rule 5.150.

Chapter 4. Defaults

Rule 5.80 Default Procedure for Failure to File Timely Response

- (A) **Motion for Entry of Default.** When ~~a member~~ an attorney fails to timely file a response, the deputy trial counsel must file and serve on the ~~member~~ attorney a motion for entry of default. The motion must be filed within 15 days

after the response is due, absent an agreement or order extending the time for filing by the ~~member~~ attorney of a response, and must contain:

- (1) The filing date of notice and date of service of disciplinary charges;
- (2) a statement that the ~~member~~ attorney did not timely file a response under rule 5.43;
- (3) the following language in prominent type:

“If you do not file a response with the State Bar Court within 10 days of service of this motion, the Court will enter your default, deem the facts in the notice of disciplinary charges admitted by you, and may admit evidence against you that would otherwise be inadmissible. You will lose the opportunity to participate further in these proceedings, unless you timely make—and the Court grants—a motion to set aside your default. If your default is entered, and you fail to timely move to set it aside, this Court will enter an order recommending your disbarment without further hearing or proceeding. (See Rules of Procedure of the State Bar of California, rule 5.80 et seq.)”

- (B) Declaration of Reasonable Diligence.** The motion must be supported by a declaration establishing that the deputy trial counsel acted with reasonable diligence to notify the ~~member~~ attorney of the proceedings. The declaration must:

- (1) state whether a signed return receipt for the notice of disciplinary charges was received from the ~~member~~ attorney;
- (2) if a signed return receipt is not received from the ~~member~~ attorney, show the deputy trial counsel or agent took those additional steps a reasonable person would have taken under the circumstances to provide notice.

- (C) Service of Default Motion.** The deputy trial counsel must serve the motion under rule 5.25.

- (D) Order Entering Default.** If the ~~member~~ attorney fails to file a written response within 10 days after the motion is served, the Court may order the entry of the ~~member's~~ attorney's default. Service of the default order must comply with rule 5.25. The order must include this language in prominent type:

“Because you did not timely file a response to the notice of disciplinary charges filed in this proceeding, the Court has entered your default and deemed the facts alleged in the notice of disciplinary charges admitted. Except as ordered by the Court, you may participate in these proceedings only if the Court sets aside your default. If you fail to timely move to set aside your default, this Court will enter an order recommending your disbarment without further hearing or proceeding. (See rule 5.80 et seq., Rules of Procedure of the State Bar of California.)”

Rule 5.81 Default Procedure for Failure to Appear at Trial

(A) Default for Failure to Appear at Trial. If the ~~member~~ attorney fails to appear in person or by counsel at the trial, the Court must order the entry of the ~~member's~~ attorney's default, if:

- (1) the notice of disciplinary charges was served on the ~~member~~ attorney under rule 5.25; and
- (2) notice of trial was served by the Court by first class mail, postage paid, on:
 - (a) the ~~member's~~ attorney's counsel;
 - (b) the ~~member~~ attorney at the address provided in the response or in a change-of-address notice filed by the ~~member~~ attorney (if the ~~member~~ attorney has no counsel);
 - (c) the ~~member's~~ attorney's address in the State Bar's membership attorney records (if the ~~member~~ attorney has no counsel and has not provided any other address); or
 - (d) an address allowed by rule 5.26.

(B) Order Entering Default. The Court must order the Clerk to promptly file and serve the default order on all parties. Service must comply with rule 5.25. The order must include the following language in prominent type:

"Because you failed to appear at trial, the Court has entered your default and deemed the facts alleged in the notice of disciplinary charges admitted. Except as ordered by the Court, you may participate in these proceedings only if the Court sets aside your default. If you fail to timely move to set aside your default, this Court will enter an order recommending your disbarment without further hearing or proceeding. (See rule 5.80 et seq., Rules of Procedure of the State Bar of California.)"

(C) Effects of Default on Trial. If the Court determines that the perpetuation of evidence is pertinent to any future inquiry into the ~~member's~~ attorney's conduct or qualification to practice law, or if other good cause is shown, the trial may proceed for such limited purpose.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.82 Effects of Default.

If the Court enters a ~~member's~~ an attorney's default:

- (1) the ~~member~~ attorney will be enrolled as an inactive ~~member~~ attorney of the State Bar and will not be permitted to practice law;
- (2) the facts alleged in the notice of disciplinary charges will be deemed admitted;
- (3) except as allowed by these rules or ordered by the Court, the ~~member~~ attorney will not be permitted to participate further in the proceeding and will

- not receive any further notices or pleadings unless the default is set aside on timely motion or by stipulation; and
- (4) the Court will recommend that the ~~member~~ attorney be disbarred.

Rule 5.83 Vacating or Setting Aside Default

- (A) **Stipulation.** A stipulation to vacate a default must be approved by the Court.
- (B) **Motion to Vacate Improperly Entered Default.** By motion of any party or on the Court's own motion, an improperly entered default may be vacated at any time while the Court has jurisdiction over the matter. Any default entered while the ~~member~~ attorney is on active duty in the armed forces of the United States is improperly entered.
- (C) **Motion to Set Aside Default.** ~~A member~~ An attorney may move to set aside a default because of mistake, inadvertence, surprise, or excusable neglect. Those grounds will be interpreted under Code of Civil Procedure § 473. The ~~member~~ attorney must file the motion as soon as practical but no later than:
- (1) 90 days after the default order is served under rule 5.80, or
 - (2) 45 days after the default order is served under rule 5.81.
- (D) **Late-Filed Motion.** If the ~~member~~ attorney files the motion beyond the time required in subdivision (C), the ~~member~~ attorney must prove by clear and convincing evidence that:
- (1) the ~~member~~ attorney did not receive or learn of the notice of disciplinary charges until after the required period expired;
 - (2) the ~~member~~ attorney filed the motion promptly after learning of the notice; and
 - (3) the ~~member's~~ attorney's failure to file a timely response and failure to file a timely motion are excused by compelling circumstances beyond the ~~member's~~ attorney's control.
- (E) **Response to Notice of Charges.** Unless the ~~member~~ attorney already filed a response, a copy of the proposed response to the notice of disciplinary charges must accompany the motion. The proposed response must be verified and comply with rule 5.43.
- (F) **Support for Motion to Set Aside Default.** The ~~member~~ attorney must support the motion with one or more declarations showing:
- (1) the date that the ~~member~~ attorney first learned of the disciplinary charges;
 - (2) the reason why the ~~member~~ attorney did not file a response to the notice of disciplinary charges, or why the ~~member~~ attorney failed to appear at trial;
 - (3) the date that the ~~member~~ attorney first learned of the entry of default; and
 - (4) the grounds to set aside the default.

- (G) **Expedited Ruling on Motion.** The Court will decide a motion to set aside or vacate a default on an expedited basis. It may stay the proceedings pending its ruling.
- (H) **Rulings on Motions.** If ~~a member~~ an attorney files a motion to vacate or set aside a default the judge may:
- (1) grant the motion upon a showing of good cause;
 - (2) vacate the default subject to appropriate conditions;
 - (3) set aside the default for limited purposes only; or
 - (4) deny the motion if the judge decides that the ~~member~~ attorney has not made the required showing.
- (I) **Discovery.** To the extent not previously requested or provided, the Court may order discovery pursuant to rule 5.65 as a condition of vacating or setting aside a default.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.84 Interlocutory Review of Orders Denying or Granting Relief from Default

An order on a motion to vacate or set aside default is reviewable under rule 5.150.

Rule 5.85 Petition for Disbarment After Default

- (A) **Petition.** If the ~~member~~ attorney fails to have the default set aside or vacated, the Office of the Chief Trial Counsel must file a petition requesting the Court to recommend the ~~member's attorney's~~ disbarment to the Supreme Court. The petition must be supported by one or more declarations stating whether:
- (1) any contact with the ~~member~~ attorney has occurred since the default was entered;
 - (2) any other investigations or disciplinary charges are pending against the ~~member~~ attorney;
 - (3) the ~~member~~ attorney has a prior record of discipline; and
 - (4) the Client Security Fund has paid out claims as a result of the ~~member's~~ attorney's misconduct.
- (B) **Support for Petition.** All documents referenced in a petition, including prior records of discipline, must be filed with the petition and supported by declaration.
- (C) **Timing of Petition.** The earliest a petition may be filed is:
- (1) 91 days after the default order is served under rule 5.80, or
 - (2) 46 days after the default order is served under rule 5.81.
- (D) **Service.** The Office of the Chief Trial Counsel must serve the petition under rule 5.25, and must file a petition for disbarment within 15 days after it becomes entitled to do so pursuant to this rule.

- (E) **Response.** Within 20 days of service of the petition, the ~~member~~ attorney may file and serve a motion to set aside or vacate the default.
- (F) **Ruling.**
- (1) If the ~~member~~ attorney fails to file a response or the Court denies a motion to set aside or vacate the default and all other relief from default, the Court must recommend the ~~member's~~ attorney's disbarment if the evidence shows:
 - (a) The notice of disciplinary charges was served on the ~~member~~ attorney properly;
 - (b) The ~~member~~ attorney had actual notice or reasonable diligence was used to notify the ~~member~~ attorney of the proceedings prior to the entry of default;
 - (c) The default was properly entered; and
 - (d) The factual allegations deemed admitted in the notice of disciplinary charges or pursuant to the notice of hearing on conviction support a finding that the ~~member~~ attorney violated a statute, rule or court order that would warrant the imposition of discipline.
 - (2) If the Court determines that any of the factors set forth under subdivision (1) is not established, it must deny the petition, vacate the default, and take other appropriate action to ensure that the matter is promptly resolved.

Eff. January 1, 2011. Revised July 1, 2014; January 1, 2019.

Rule 5.86 Review of Orders on Petitions for Disbarment

An order on a petition for disbarment is reviewable under rule 5.150.

Chapter 5. Trials

Rule 5.100 Obligation to Appear at Trial

~~A member~~ An attorney has an obligation to appear at trial unless a default has been entered and has not been vacated. Unless properly served with a trial subpoena or notice to appear at trial, the ~~member~~ attorney may appear through counsel rather than in person.

Rule 5.101 Pretrial Statements and Pretrial Conferences

- (A) **Preparation of Pretrial Statements.** Unless the court orders that a pretrial statement need not be prepared, all counsel must meet in person or by telephone prior to the date on which the pretrial statement is due to be filed and discuss:
- (1) Preparation of a joint pretrial statement;

- (2) Coordination of pretrial statements if no agreement is reached on the filing of a joint pretrial statement; and
 - (3) The factors set forth in paragraph (C).
- (B) Time for Pretrial Statements.** The parties must file and serve pretrial statements at least 10 days before the pretrial conference, or as the court orders.
- (C) Contents of Pretrial Statements and Exchange of Exhibits.** Unless otherwise ordered by the court, the pretrial statements shall include the following heading and information:
- (1) **Party.** The names of the party or parties on whose behalf the statement is filed.
 - (2) **Attempts to comply:** If a joint pretrial statement is not submitted, the parties will summarize their efforts to comply with Rule 5.101(A)(1) and Rule 5.101 (A)(2).
 - (3) **Substance of the proceeding.** A description of the substance of the charges or claims and defenses presented and of the issues to be
 - (4) **Undisputed facts.** A plain and concise statement of all material facts not reasonably disputable. Counsel are expected to make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony or exhibits.
 - (5) **Disputed issues.** A plain and concise statement of all disputed factual issues, evidentiary issues, and claims of work product or privilege.
 - (6) **Disposition sought in disciplinary proceedings.** A statement as to the disposition sought if culpability is found and in other proceedings, a statement of the relief sought. No party shall be bound by presentations as to disposition sought.
 - (7) **Points of law.** A concise statement of each disputed point of law with respect to the issues in the proceeding, with reference to statutes, rules, and decisions relied upon.
 - (8) **Witnesses to be called.** A list of all witnesses likely to be called at trial, together with a statement following each name describing the substance of the testimony to be given, any anticipated difficulty in scheduling the witness, and any special needs of the witness, such as a need for an interpreter.
 - (9) **Further discovery or motions.** A statement of all remaining discovery or motions.
 - (10) **Stipulations.** A statement of stipulations requested or proposed for pretrial or trial purposes.
 - (11) **Amendments; dismissals.** A statement of requested or proposed amendments to pleadings or dismissals of parties, charges, claims, or defenses.

- (12) **Settlement discussion.** A statement summarizing the status, but not the substance settlement, of settlement negotiations and indicating whether further negotiations are likely to be productive.
- (13) **Bifurcation; separate trial of issues.** A statement whether bifurcation or a separate trial of specific issues is feasible and desired.
- (14) **Limitation of experts.** A statement whether limitation of the number of expert witnesses is feasible and desired.
- (15) **Estimate of trial time.** An estimate of the number of court days expected to be required for the presentation of each party's case. Counsel are expected to make a good faith effort to reduce the time required for trial by all means reasonably feasible, including stipulations, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.
- (16) **Claim of privilege or work product.** A statement indicating whether any of the matters otherwise required to be stated by this rule is claimed to be covered by the work product or other privilege. Upon such indication, such matters may be omitted subject to further order at the pretrial conference.
- (17) **Failure to cooperate.** A statement as to any failure of opposing counsel to cooperate in meeting and conferring on pretrial issues. If established, such failure may constitute grounds for such orders as the court deems proper, including, but not limited to, the exclusion of evidence and witnesses.

- (18) **Miscellaneous.** Any other subjects relevant to the trial of the proceeding, or material to its just, efficient, and economical determination.
- (D) **Pretrial Conference Rulings.** At the pretrial conference, the court may rule on any objections to the pretrial statements and may order the pretrial statements to be amended or supplemented.
- (E) **Failure to File Pretrial Statements.** If a party fails to file a pretrial statement, the court may order sanctions it deems proper, including, but not limited to, excluding evidence or witnesses.

Eff. January 1, 2011; Revised January 1, 2019.

Source: Rules Prac. of State Bar, rules 1221 & 1223.

Rule 5.101.1 Trial Exhibits

- (A) **Marking of Exhibits.** Each proposed exhibit for trial must be pre-marked by the parties for identification using a system of letters or numbers as ordered by the court. Any exhibit consisting of more than a single page must be pre-marked on the initial page with the exhibit number or letter, with each individual page within the exhibit, commencing with the first page of the exhibit, being paginated in numerical sequence. Upon request, a party must make the original or underlying document of any proffered exhibit available

for inspection and copying.

- (B) **Exchange of Exhibits by Parties.** Unless otherwise ordered by the court, at least 10 days prior to the pretrial conference, the parties must exchange copies of all documents to be offered as exhibits, otherwise used at trial. Except for oversized exhibits (large exhibits which cannot be reasonably copied or presented in a binder), all exhibits exchanged by the parties must be pre-marked and paginated, as set forth above, and be in the same form as those lodged with the court. The parties may exchange an alternative form of any oversized exhibit by reasonably duplicating that exhibit.
- (C) **Proposed Exhibit List.**
- (1) **Contents; restriction on evidence of prior discipline.** Together with the pretrial statement, each party must submit, as a separate document, a proposed exhibit list of all documents and other items to be offered by such party as exhibits at trial, properly described and indexed. Records of prior discipline to be used solely as evidence in aggravation must not be included in the proposed exhibit list.
 - (2) **Format of exhibit list.** The proposed exhibit list must be in the format approved by the court for use as the master exhibit list at trial. No exhibits are to be attached to the pretrial statement or the proposed exhibit list.
- (D) **Lodging and Offering of Exhibits at Trial**
- (1) **Exhibits to be formally offered:** At the time trial commences, or as otherwise ordered by the court, each party must supply to the Clerk the original exhibits identified in such party's proposed exhibit list. Each exhibit must be top-hole-punched, pre-marked, and paginated as described above, and, if over 30 pages, top-bound with a clasp. These original exhibits are not to be presented to the Clerk in binders. A copy of such exhibits, pre-marked and paginated as described above, must have been previously provided to opposing counsel. Except as provided below, these exhibits will become part of the official court record.
 - (2) **Exhibits lodged for use of court and witnesses:** In addition to the original exhibits, at the time trial commences or as otherwise ordered by the court, each party must lodge two separate sets of its proposed exhibits, pre-marked and paginated as described above. One of these sets is for the use of the court and the other is for the use of witnesses at trial. Each such set must be presented in a tabbed exhibit binder, which binder must bear on both its front and spine affixed labels identifying the case name and number and the identity of the proffering party.
 - (3) **Witnesses:** No exhibit may be shown to a witness during trial until opposing counsel has had an opportunity to examine it.
- (E) **Withdrawn Exhibits.** A proposed exhibit which is withdrawn or not offered into evidence will not become part of the official record.

- (F) **Exhibits Judicially Noticed.** Requests for judicial notice will be governed by California Evidence Code sections 450 et seq. Any document for which judicial notice is requested must be pre-marked, disclosed to the other parties, and lodged with the court in accordance with subsection (D) of this rule.
- (G) **Failure to Comply.** Failure to comply with this rule without good cause may constitute grounds for such orders as the court deems proper, including, but not limited to, exclusion of exhibits from evidence.

Eff. January 1, 2011; Revised January 1, 2019.
Source: State Bar Ct. Rules of Prac., rule 1224.

Rule 5.101.2 Objections to Proposed Exhibits

Promptly after the receipt of exhibits from the opposing party and prior to commencement of the trial, any party objecting to the receipt in evidence of any proposed exhibit shall advise the opposing party of all such objections. All parties shall then meet and confer and attempt to resolve all such objections in advance of trial.

Eff. Revised January 1, 2019.
Source: State Bar Ct. Rules of Prac., rule 1225.

Rule 5.102 Trial

- (A) **Notice.** The Clerk must serve notice of the trial date on the parties at least 30 days before the trial date.
- (B) **Trial Date Rescheduled.** If a trial date is rescheduled, the Clerk must give at least 20 days' notice of the new date to the parties, orally or by mail, unless the parties agree to shorter notice.
- (C) **Commencement of Trial.** Unless the hearing judge finds, in writing, that good cause exists for a continuance, the trial will begin no later than 125 days after the notice of disciplinary charges is served and will be conducted on consecutive days.

Rule 5.102.1 Order of Proof in Disciplinary Proceedings

In disciplinary proceedings, the parties shall present evidence as to culpability prior to presenting evidence as to aggravating or mitigating circumstances, except as ordered by the court.

Eff. Revised January 1, 2019.
Source: State Bar Ct., Rules of Prac., rule 1250.

Rule 5.102.2 Order of Proof in Other Proceedings

Unless otherwise ordered by the court, the party initiating the proceeding, or the State Bar if the proceeding was initiated by the court, shall present evidence first.

Eff. January 1, 2019.

Source: State Bar Ct., Rules of Prac., rule 1251.

Rule 5.103 The State Bar's Burden of Proof

The State Bar must prove culpability by clear and convincing evidence.

Rule 5.104 Evidence

- (A) **Oral Evidence.** Oral evidence must be taken only on oath or affirmation.
- (B) **Rights of Parties.** Each party will have these rights:

 - (1) to call and examine witnesses;
 - (2) to introduce exhibits;
 - (3) to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination;
 - (4) to impeach any witness regardless of which party first called him or her to testify;
 - (5) to rebut the evidence against him or her; and,
 - (6) if the ~~member~~ attorney does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.
- (C) **Relevant and Reliable Evidence.** The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence must be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
- (D) **Hearsay.** Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but over timely objection will not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- (E) **Privileges.** The rules of privilege will be effective to the extent that they are otherwise required by statute to be recognized at the hearing.
- (F) **Judicial Discretion.** The hearing judge has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(G) Letters of Inquiry.

- (1) Proof that the Office of Chief Trial Counsel sent an e-mail notification to a ~~member~~ an attorney in compliance with rule 2409(a), Rules of Procedure of the State Bar, coupled with proof that the e-mail was not returned as undeliverable, creates a presumption affecting the burden of producing evidence that the ~~member~~ attorney viewed the e-mail on or about the date it was sent.
- (2) Proof that a letter of inquiry was remotely accessed on a ~~member's~~ an attorney's "My State Bar Profile" on a given date creates a presumption affecting the burden of producing evidence that the ~~member~~ attorney received the letter of inquiry on that date.
- (3) The Office of Chief Trial Counsel may establish the proof necessary under paragraphs (i) and (ii) by submitting copies of State Bar records, supported by declarations(s) of State Bar staff attesting to the authenticity and nature of the records.

(H) Judicial Notice of Court Records and Public Records.

- (1) For purposes of this rule, "court records" means pleadings, declarations, attachments, dockets, reporter's transcripts, clerk's transcripts, minutes, orders, and opinions that have been filed with the clerk of any tribunal or court within the United States.
- (2) The State Bar Court may take judicial notice of the following:
 - (a) court records that have been certified by the clerk of the court or tribunal;
 - (b) non-certified court records of the State Bar Court;
 - (c) non-certified orders of the California Supreme Court in attorney disciplinary cases;
 - (d) non-certified court records that have been copied from the tribunal or court's official file and timely provided to the opposing party during the course of formal or informal discovery. The party offering such records must provide a declaration stating the date on which the documents were copied and certifying that the documents presented to the State Bar Court are an accurate copy of the court records obtained from the court's official file; and
 - (e) non-certified court records that have been copied from a public access website operated by a court or government agency for the purpose of posting official public records or court records, e.g., the federal court website called "Public Access to Court Electronic Records" and more commonly known as PACER. The party offering such records must provide a declaration stating the date on which the documents were copied and certifying that the documents presented to the State Bar Court are an accurate copy of the court records obtained from the website.

- (3) The State Bar Court must take judicial notice of the records mentioned in paragraph (2) if they are relevant to the proceeding unless a party proves, e.g., through certified records, that the proffered records are incomplete or not authentic.
- (4) This rule is not intended to limit the judicial notice provisions contained in Evidence Code, section 450 et seq.

Eff. January 1, 2011. Revised May 18, 2018; January 1, 2019.

Rule 5.105 Evidence of Client Security Fund Proceedings

- (A) **Admissibility of Reimbursement Application.** The approval or denial, in whole or in part, of an application for reimbursement from the Client Security Fund is admissible in a discipline proceeding only if used:
 - (1) to prove the authorized reimbursement amount after a finding of culpability;
 - (2) to impeach the applicant for reimbursement, the complaining witness, or a party who is the subject of the State Bar Court proceeding; or
 - (3) for any purpose when a party who is the subject of the State Bar Court proceeding has already been disciplined for the same action that gave rise to the Client Security Fund application and the decision to discipline the party has become final.
- (B) **Admissibility of Payment and Reimbursement.** If evidence that a Client Security Fund claim has been paid is introduced, evidence that it has been reimbursed is also admissible.

Rule 5.106 Prior Record of Discipline

- (A) **Included Items.** A prior record of discipline comprises an authenticated copy of all charges, stipulations, findings and decisions (final or not) reflecting or recommending that discipline be imposed on a party. It may include:
 - (1) records from any jurisdiction stated in Business and Professions Code § 6049.1, and
 - (2) recommended discipline that the Court of last resort in the jurisdiction has not yet approved.
- (B) **Excluded Items.** A prior record does not include the following dispositions if ordered in California, or the equivalent if ordered elsewhere:
 - (1) inactive enrollment;
 - (2) suspension for nonpayment of State Bar fees;
 - (3) interim suspension after conviction of crime;
 - (4) admonition; and
 - (5) agreements in lieu of discipline.
- (C) **Lost or Destroyed Records.** If part or all of the record is lost or destroyed, the record may be established by clear and convincing evidence.

- (D) **Admissibility.** A record, or the existence of a record, is inadmissible unless the Court makes a tentative finding of culpability or it tends to prove a fact in issue in determining culpability.
- (E) **Nonfinal Records.** A record of prior discipline is not made inadmissible by the fact that the discipline has been recommended but has not yet been imposed. If a record of prior discipline that is not yet final is admitted, the Court shall specify the disposition:
- (1) if the non-final prior discipline recommendation is adopted; and
 - (2) if the non-final prior discipline recommendation is dismissed or modified.

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.107 Victim's Impact Statement

- (A) **Written Statement.** Any person who has been harmed by conduct of the ~~member~~ attorney that is the subject of the pending proceeding may submit a written statement setting forth the nature and extent of that harm and the manner in which the ~~member's~~ attorney's conduct caused the harm.
- (B) **Admissibility and Cross-Examination.** Once a finding of culpability of the ~~member~~ attorney is made, victims' written statements must be admitted into evidence. Upon the ~~member's~~ attorney's showing of good cause, the Court may require the Office of the Chief Trial Counsel to produce the victim(s) at the mitigation/aggravation phase of the hearing for purposes of cross-examination by the ~~member~~ attorney.

Rule 5.108 Admissibility of Complaints

If the ~~member~~ attorney introduces evidence that no complaints or charges have been made, then evidence of any complaints or charges is admissible in rebuttal. Evidence of the facts underlying a record of complaint or unproven charge may be admitted to prove a fact in issue. Otherwise, evidence of complaints or unproven charges is inadmissible.

Rule 5.109 Alleged Misconduct of Another ~~Member~~ Attorney

If the Court finds probable cause to believe that another ~~member~~ attorney has committed acts of misconduct, it will file a decision in the current proceeding before referring the matter regarding the other ~~member~~ attorney to the Office of the Chief Trial Counsel.

Rule 5.110 Failure to Meet Burden of Proof

- (A) **Motion on Failure to Meet Burden of Proof.** During a trial, after the party with the burden of proof has rested and before the proceeding is submitted to the Court, the opposing party may make a motion for a determination that the

party with the burden of proof has failed to meet its burden, or the Court may make the motion itself and give the parties an opportunity to argue the issue. If the allegations are severable, the Court may dismiss some but not all of them. The Court must consider and weigh all the evidence introduced and determine credibility.

- (B) **Denial of Motion.** If the motion is denied, the moving party may offer evidence to the same extent as if the motion had not been made.
- (C) **Grant of Motion.** If the motion is granted, the Court's decision must include findings of fact and conclusions of law.

Rule 5.111 Submission and Decision

- (A) **Submission.** The matter will be submitted on the last day of trial. Unless good cause is shown, no post-trial briefing is permitted. In no event may briefing extend submission beyond 21 days from the last day of trial.
- (B) **Time to File Decision.** The Court will file its decision within 90 days after the matter is submitted, unless an expedited proceeding requires a shorter period by statute, by Supreme Court rule, or by these rules.
- (C) **Service and Finality of Decision.** The Clerk will file and serve the Court's decision. The decision is final unless a timely request for review under rules 5.151 or 5.157 or post-trial motion under rules 5.111–5.114 is filed, or unless the decision is modified on the Court's own motion. A decision is not modified by correcting typographical errors or making insubstantial changes that do not affect the merits.
- (D) **Inactive Enrollment.**
 - (1) **Disbarment Recommended.** If the Court recommends disbarment, it must also order the ~~member~~ attorney placed on inactive enrollment under Business and Professions Code § 6007(c)(4). Unless the Court orders otherwise, the order takes effect upon personal service or three days after service by mail, whichever is earlier.
 - (2) **Disbarment No Longer Recommended.** If, either on reconsideration by the hearing judge or on review, a recommendation for disbarment is changed to one for a lesser discipline, the Court must vacate the order of inactive enrollment made under Business and Professions Code § 6007(c)(4).
- (E) **State Bar Court's Annual Report.** By March 1 of each year, the State Bar Court must prepare and submit to the Chief Justice of the Supreme Court an annual report describing how each State Bar Court hearing judge complied with the requirements of subsection (B) during the preceding calendar year.

Rule 5.112 Post-trial Motions in the Hearing Department

- (A) **Filing Before Decision.** Rule 5.45 governs post-trial motions. Additionally, post-trial motions must be in writing.
- (B) **Filing After Decision.** If a post-trial motion is filed after the decision is served, the time to seek review begins when the Hearing Department rules on the motion. A request for review filed before the ruling is automatically vacated and a new request for review must be timely filed.

Rule 5.113 Motion to Reopen Record

- (A) **When to Make Motion.** At any time before the period for requesting review by the Review Department expires, a party may make a motion in the Hearing Department to reopen the record to present additional evidence.
- (B) **Requirements.** A motion to reopen the record must be accompanied by one or more declarations stating the substance of the evidence and showing that:
 - (1) it is newly discovered and could not with reasonable diligence have been discovered and produced earlier;
 - (2) it is not merely cumulative and is the best available evidence on the issue, and
 - (3) consideration of the evidence would probably lead to a different result.

Rule 5.114 Motion for New Trial

- (A) **When to Make Motion.** Any party may make a motion in the Hearing Department for a new trial within 15 days after the decision in a proceeding is served.
- (B) **Requirements.** A motion for a new trial must be accompanied by one or more declarations setting forth the facts that the moving party contends justify a new trial, under the standards for granting a motion for a new trial in a civil matter in the Courts of this state.

Rule 5.115 Motion for Reconsideration

- (A) **Who May Make and When to Make Motion.** Any party may make a motion for reconsideration in the Hearing Department within 15 days after the decision in a proceeding is served.
- (B) **Grounds.** The grounds for a motion for reconsideration are:
 - (1) new or different facts, circumstances, or law, as that ground is applied in civil matters under Code of Civil Procedure § 1008; or
 - (2) the order or decision contains one or more errors of fact or law, or both, based on the evidence already before the Court.

Chapter 6. Dispositions and Costs

Rule 5.120 Sending Disciplinary Recommendations to the Supreme Court

Unless the Court orders otherwise, the State Bar Court's final recommendation to suspend or disbar ~~a member~~ an attorney and the accompanying record will be sent to the Supreme Court after all applicable cost certificates have been filed, or an additional 30 days has expired, whichever is earlier.

Rule 5.121 Waiver of Review by Review Department

The parties may file a stipulation to waive review under rule 5.150 and ask that the disciplinary recommendation be sent to the Supreme Court immediately. If applicable, the stipulation must be accompanied by a certificate of costs from the Office of the Chief Trial Counsel. The Clerk will send the record to the Supreme Court on an expedited basis.

Rule 5.122 Types of Resolution; Procedure; Review

- (A) **Types of Resolution.** Other than resolution by decision or stipulated disposition, a proceeding may be resolved by:
 - (1) dismissal without prejudice;
 - (2) dismissal with prejudice,
 - (3) an order terminating the proceeding; or
 - (4) issuance of an admonition.
- (B) **Motion for Resolution.** A motion to resolve may be made by any party or by the Court on its own motion after giving the notice and an opportunity to object. A motion rather than a stipulation is required when the parties agree to resolve a proceeding by dismissal, admonition, or termination. A joint motion for an admonition must comply with rule 5.126(E).
- (C) **Stipulation Affecting Resolution.** A stipulation under rules 5.55 or 5.56 may provide for the dismissal with prejudice of one or more charges brought in the proceeding in which the stipulation is filed.
- (D) **Court Order Required.** Even if no party objects to a motion for resolution, the Court, in the interests of justice, may decline to issue an order resolving a proceeding.
- (E) **Review.** If a motion for resolution under rules 5.122–5.126 is denied or the order granting the motion does not resolve the proceeding in its entirety, the order is reviewable under rule 5.150. If the order granting the motion resolves the proceeding in its entirety, any party who opposed the motion may request review under rules 5.151 or 5.157.

Rule 5.123 Dismissal With or Without Prejudice; Effect

- (A) **Language of Order.** An order dismissing a proceeding, in whole or in part, must specify whether the dismissal is with or without prejudice. If with prejudice, the order must state its basis.
- (B) **Effect of Dismissal with Prejudice.** After a dismissal with prejudice, the State Bar may not reopen the proceeding or begin a new proceeding based on the same transaction or occurrence.
- (C) **Effect of Dismissal without Prejudice.** After a dismissal without prejudice, the State Bar may reopen the proceeding by filing an amended notice of disciplinary charges or by appropriate motion, or open a new proceeding based wholly or partially on the same transaction or occurrence. The notice of disciplinary charges in a new proceeding must identify the dismissed proceeding and state that it is based on the transaction or occurrence in that proceeding.
- (D) **Limitation on Proceedings.** If more than two years have elapsed since the dismissal's effective date, or if the dismissal was based on an agreement in lieu of discipline, and the term of the agreement has expired, the State Bar must ask the Court's leave, based on good cause, to reopen a proceeding or begin a new proceeding opened based on the same transaction or occurrence.

Rule 5.124 Grounds for Dismissal

- (A) **Voluntary Dismissal for Insufficiency of Evidence.** The party that began a proceeding may move to voluntarily dismiss the proceeding, in whole or in part, because evidence is unavailable or insufficient. Unless the Court, in its discretion, determines otherwise, a dismissal is without prejudice.
- (B) **Dismissal for Defective Service.** A proceeding may be dismissed without prejudice because of a defect in the initial pleading's service, but the Court may allow a specified time for filing proof of proper service. If a timely motion is not filed, an alleged defect in service will not be grounds for dismissal. A motion to dismiss because of a defect in the initial pleading's service must be made no later than:
 - (1) the date on which the moving party's response must be filed;
 - (2) if the moving party's default is entered, the time to move for relief from default expires; or
 - (3) if no response is provided for, within 20 days after the date the allegedly defective service was made.
- (C) **Dismissal for Defective Initial Pleading.** A proceeding may be dismissed without prejudice if the initial pleading does not state a legally sufficient basis for the action proposed, or, in a disciplinary proceeding, if the initial pleading does not state a disciplinable offense or give sufficient notice of the charges.

In either event, the Court may order dismissal without prejudice but must allow at least one opportunity to amend the pleading within 20 days after the dismissal order is served or 20 days after the Review Department's decision on the order is served, whichever is later. The Court may extend the time to amend. If the amended pleading does not cure the defects identified in the previous dismissal, the Court may dismiss the proceeding with prejudice.

- (D) **Motion to Dismiss for Inadequate Notice.** If a timely motion to dismiss is not filed, an alleged defect in the pleading will not be grounds for dismissal but the party may still assert inadequate notice for other purposes. A motion to dismiss because the initial pleading fails to give sufficient notice of the charges must be made no later than:
- (1) the date on which the moving party's response must be filed; or
 - (2) if no response is provided for, within 20 days after the initial pleading was served.
- (E) **Motion to Dismiss for Failure to State a Disciplinable Offense.** A motion to dismiss for failure of the initial pleading to state a disciplinable offense may be made at any time before the Court finds culpability.
- (F) **Proceeding Barred by Statute or Rule.** A proceeding may be dismissed if it is barred by any applicable statute or rule.
- (G) **Dismissal to Further Justice.**
- (1) The party that began a proceeding may move to dismiss in the furtherance of justice. A dismissal is without prejudice unless the motion shows good cause for dismissal with prejudice.
 - (2) The Court may move on its own motion to dismiss to further justice but must give the parties notice, state its reasons for dismissal, and order the parties to show cause why it should not dismiss the proceeding. Within 10 days after the Court's order to show cause is served, the parties may file a response that may include declarations, an offer of proof, and points and authorities either in support of or in opposition to the Court's intended action. In its response, the State Bar may include information concerning prior investigation matters that were closed with warning letters, resource letters, agreements in lieu of disciplinary prosecution, other agreements resolving investigations, and impositions of discipline (including private reprovais), or any other evidence of prior conduct tending to establish a common plan, scheme, or device. If the Court dismisses the proceeding, its written order will state its reasons and whether the dismissal is with or without prejudice.
- (H) **Agreement in Lieu of Discipline.** If the State Bar and the ~~member~~ attorney make an agreement in lieu of discipline under Business and Professions Code § 6092.5(i), a disciplinary proceeding may be voluntarily

dismissed without prejudice. But if the ~~member~~ attorney successfully performs the agreement, the State Bar cannot reopen the proceeding or bring a new one based on the misconduct charged in the dismissed proceeding.

- (I) **Discovery Sanction.** Dismissal may be ordered as a discovery sanction. Unless the Court orders otherwise for good cause shown, dismissal is with prejudice.
- (J) **Future Consolidation.** The State Bar may move to dismiss a proceeding so it may be refiled and consolidated with another proceeding involving the same ~~member~~ attorney that is not yet ready for prosecution. A dismissal is without prejudice. The Court may not dismiss a proceeding on its own motion.
- (K) **Resignation or Disbarment.** If the ~~member~~ attorney who is the subject of a pending proceeding resigns or is disbarred, the Court will take judicial notice of the Supreme Court's order accepting the resignation or ordering the disbarment, and dismiss the proceeding without prejudice.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.125 Termination Because of Death

If ~~a member~~ an attorney, petitioner, or applicant who is the subject of a pending proceeding dies, any party or its counsel, promptly on learning of the death, may file a motion to terminate the proceeding. The motion must be accompanied by a certified copy of the death certificate or, if a death certificate cannot be obtained after diligent effort, other sufficient proof of death. On receipt of the motion, or on the Court's own motion after receiving sufficient proof of death and giving notice to the deputy trial counsel and the deceased party's counsel (if any), the Court will file an order terminating the proceeding.

Rule 5.126 Admonition

- (A) **When Permissible.** The Court may resolve a matter by an admonition to the ~~member~~ attorney if the subject matter of a pending disciplinary proceeding does not involve a Client Security Fund matter or a serious offense, and the Court concludes that the violation(s) were not intentional or occurred under mitigating circumstances, and no significant harm resulted.
- (B) **"Serious Offense" Defined.** "Serious offense" means conduct involving dishonesty, moral turpitude, or corruption, including bribery, forgery, perjury, extortion, obstruction of justice, burglary or related offenses, intentional fraud, and intentional breach of a fiduciary relationship.
- (C) **Publicity.** A copy of the admonition or news of its issuance must be sent to the complainant, complainant's counsel (if any), and the deputy trial counsel. The State Bar or the State Bar Court will not actively publicize it otherwise.

But unless otherwise ordered, the file in a public proceeding will remain public.

- (D) **Not Discipline.** The giving of an admonition is not equal to imposing discipline on the ~~member~~ attorney.
- (E) **Who May Request Admonition.** Any party may move for an admonition, or the parties may make a joint motion. If the motion is made jointly, it must be accompanied by a stipulation under rule 5.56.
- (F) **Reopening Proceedings.** If within two years after the effective date of an admonition the ~~member~~ attorney allegedly commits misconduct that results in another disciplinary proceeding, then within 30 days after the new proceeding begins, the Office of the Chief Trial Counsel may file a motion to reopen the proceeding resolved by admonition. All applicable time limitations are tolled between the issuance of the admonition and the filing of the order granting the motion to reopen.

Rule 5.127 Public and Private Reprovals

- (A) **Stipulation and Reapproval.** The Court's decision or order approving a stipulation may include a reapproval that takes effect when the decision or order is final. The decision or order must specify whether the reapproval is public or private.
- (B) **Public Reapproval.** A public reapproval is part of the ~~member's~~ attorney's official State Bar ~~membership~~ attorney records, is disclosed in response to public inquiries, and is reported as a record of public discipline on the State Bar's web page. The record of the proceeding in which the public reapproval was imposed is also public.
- (C) **Private Reapproval Before Notice of Disciplinary Charges.** A private reapproval imposed before a State Bar Court proceeding begins is part of the ~~member's~~ attorney's official State Bar ~~membership~~ attorney records, but is not disclosed in response to public inquiries and is not reported on the State Bar's web page. The record of the proceeding is not available to the public unless it becomes part of the record of any later proceeding in which it is introduced as evidence of a prior record of discipline. The ~~member~~ attorney is not obligated to pay discipline costs.
- (D) **Private Reapproval After Notice of Disciplinary Charges.** A private reapproval imposed on ~~a member~~ an attorney after the initiation of a State Bar Court proceeding is part of the ~~member's~~ attorney's official State Bar ~~membership~~ attorney records, is disclosed in response to public inquiries and is reported as a record of public discipline on the State Bar's web page. The complainant is informed of the imposition of the private reapproval. The ~~member~~ attorney is not obligated to pay discipline costs.

Rule 5.128 Reprovals with Conditions

Conditions effective for a reasonable time may be attached to reprovals under California Rules of Court, rule 9.19. Motions to modify conditions attached to reprovals are governed by rules 5.300-5.306.

Rule 5.129 Certification and Assessment of Costs

- (A) **Payment of Proceeding's Costs.** Under Business and Professions Code § 6086.10, ~~a member~~ an attorney who receives a public reproof or greater level of discipline must pay the costs of the disciplinary proceeding based upon cost certificates submitted by the Office of the Chief Trial Counsel or the Office of Probation and of the State Bar Court.
- (B) **Cost Certificates Submitted with Record.** If the record of the State Bar proceedings sent to the Supreme Court contains a recommendation of suspension, disbarment, or acceptance of ~~a member's~~ an attorney's resignation with disciplinary charges pending, the cost certificates of the Office of the Chief Trial Counsel or the Office of Probation and of the State Bar Court must accompany it.
- (C) **Culpability and Award of Costs.** If the Court finds ~~a member~~ an attorney culpable in a matter, it will award costs to the State Bar. ~~A member~~ An attorney is found culpable in a matter if the State Bar Court decides that the ~~member~~ attorney violated at least one rule or statute at issue in that matter.
- (D) **"Matter" Defined.** "Matter" includes:
- (1) a separate investigation opened by the Office of the Chief Trial Counsel against ~~a member~~ an attorney;
 - (2) a probation revocation proceeding begun by the Office of Probation; or
 - (3) a conviction proceeding.
- (E) **Resignation with Charges Pending.** If ~~a member~~ an attorney resigns from the practice of law while disciplinary charges are pending against the ~~member~~ attorney, the Court will recommend that the State Bar recover the costs of: (1) processing the ~~member's~~ attorney's resignation; (2) the underlying pending disciplinary proceeding; and (3) any pending investigations that were complete when the State Bar received the ~~member's~~ attorney's resignation.
- (F) **Payment in Annual Installments.** If the Court's order imposing costs allows ~~a member~~ an attorney to pay in annual installments, the order must designate the amount of each installment, which will be added to and become a part of the ~~member's~~ attorney's annual ~~membership~~ attorney fees.

- (G) **State Bar Court's Authority.** This rule does not limit the State Bar Court's authority to grant relief from costs under rule 5.130 and Business and Professions Code § 6086.10(c).

Rule 5.130 Order Assessing Costs Against Disciplined or Resigning Respondent

- (A) **Challenges to Costs.** Under Business and Professions Code § 6086.10(b), a ~~member~~ an attorney may challenge the propriety of including items in the certificate of costs or the calculation of properly included costs. But the ~~member~~ attorney may not challenge the State Bar's determination of "reasonable costs" under Business and Professions Code § 6086.10(b)(3).
- (B) **Motion for Relief from Complying or Extension of Time to Comply.** If costs have been assessed against a ~~member~~ an attorney under rule 5.129, the ~~member~~ attorney may move for relief, in whole or in part, from the order assessing costs, for an extension of time to pay costs, or for the compromise of a judgment obtained under Business and Professions Code § 6086.10(a) on grounds of hardship, special circumstances, or other good cause. The motion must be served on the Office of the Chief Trial Counsel under rule 5.26. If the motion is based, in whole or in part, on financial hardship, it must be filed as soon as practicable after the circumstances giving rise to the financial hardship become known and be accompanied by the ~~member's~~ attorney's completed financial statement in the form prescribed by the Court. Otherwise, the motion may be filed within 30 days after the effective date of a public reproof by the State Bar Court or the filing of a Supreme Court order assessing costs. The motion must include the date the costs were originally ordered to be paid.
- (C) **Response to Motion.** The Office of the Chief Trial Counsel may file and serve a response to the motion within 20 days after the motion is served.
- (D) **Hearing.** No hearing on the motion is required. A hearing will be held only if the Court, in its discretion, determines that it will materially contribute to the consideration of the motion.
- (E) **Review.** An order of the Court on the motion is reviewable only under rule 5.150 and on grounds of error of law or abuse of discretion.

Rule 5.131 Award of Costs to Respondent Exonerated of All Charges After Trial

- (A) **Motion for Costs.** If a ~~member~~ an attorney in a disciplinary proceeding is exonerated of all charges, the ~~member~~ attorney may move for reimbursement of costs under Business and Professions Code § 6086.10(d). Exoneration may occur following trial in the Hearing Department, or, after review, by decision of the Review Department or by decision or order of the Supreme Court.

- (B) **Reasonable Expenses.** Under Business and Professions Code § 6086.10(d), only the following items are reasonable hearing preparation expenses:
- (1) taking, videotaping, and transcribing necessary depositions – including an original and one copy of depositions taken by the ~~member~~ attorney and one copy of depositions taken by the State Bar – and travel expenses to attend depositions;
 - (2) service of process by a public officer, registered process server, or other means under Code of Civil Procedure § 1033.5(a)(4);
 - (3) ordinary witness fees – but not expert witness fees – under Government Code § 68093;
 - (4) models and blowups of exhibits and photocopies of exhibits (if, in the Court’s discretion, they were reasonably helpful to the Court as the trier of fact);
 - (5) transcripts of Court proceedings ordered by the Court;
 - (6) copies of the State Bar Court Clerk’s audiotape recordings of the proceeding in which the hearing is held;
 - (7) investigation expenses incurred to prepare the case for hearing after filing the notice of disciplinary charges (if, in the Court’s discretion, the expenses were reasonably necessary);
 - (8) computerized legal research (if, in the Court’s discretion, the research was reasonably required by the issues involved in the hearing and other less expensive means of research were not reasonably available); and
 - (9) photocopying (except exhibits), postage, and telephone and fax transmission charges (capped at \$150 for the entire proceeding).
- (C) **Expenses of Seeking Reimbursement.** An exonerated ~~member~~ attorney cannot recover costs incurred in seeking reimbursement.
- (D) **“Exoneration” Defined.** Under Business and Professions Code § 6086.10(d) “exonerated of all charges” means the Court found the ~~member~~ attorney not culpable of the charged misconduct and dismissed the entire proceeding with prejudice. A ~~member~~ An attorney is not “exonerated of all charges” if the Court imposes an admonition.
- (E) **Time to File Motion and Response.** A motion for reimbursement of costs must be filed within 30 days after finality of the ruling exonerating the ~~member~~ attorney of all charges after all proceedings in the matter end, including any Supreme Court review. Appropriate documentation of the costs for which reimbursement is requested must accompany the motion. A response may be filed within 20 days after it is served.
- (F) **Hearing.** The motion will be decided by the hearing judge who was assigned to the underlying proceeding. If there is no such judge or that judge is unavailable or disqualified, the motion will be assigned to another hearing judge. A hearing will be held only if the Court, in its discretion, determines that it will materially contribute to the consideration of the motion.

- (G) **Decision.** The judge will decide the motion by written order, and may grant or deny the motion, in whole or in part. The judge will determine the reasonable expenses to be reimbursed.
- (H) **Review.** A party may file a petition for review under rule 5.150 within 15 days after the order on the motion is served.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.132 Stipulating to Relief from Payment of Costs or Extension of Time to Pay Costs

By written stipulation approved by the Court, the Chief Trial Counsel may relieve the ~~member~~ attorney, in whole or in part, from the obligation to pay the costs of disciplinary proceedings, or, with the approval of the Court, may agree to extend the time to pay these costs on grounds of hardship, special circumstances, or other good cause.

Rule 5.133 Approval of Agreements to Compromise Judgments for Client Security Fund Payments and Assessments

- (A) **Application to Compromise Judgment.** If judgment has been entered under California Rules of Court, rule 9.23 and Business and Professions Code § 6140.5 against a ~~member~~ an attorney, that ~~member~~ attorney and the State Bar may agree to compromise that judgment. The ~~member~~ attorney must apply to the State Bar Court for approval of the proposed agreement. The application and any supporting documents must be served on the Office of the Chief Trial Counsel under rule 5.25.
- (B) **Response to Application.** The Office of the Chief Trial Counsel may file and serve a response to the application within 20 days after the application is served.
- (C) **Hearing.** No hearing on the application is required. A hearing will be held only if the Court, in the exercise of its discretion, determines that it will materially contribute to the consideration of the application.
- (D) **Review.** An order of the Court on the application under this rule is reviewable only under rule 5.150 and on grounds of error of law or abuse of discretion.

Rule 5.134 Effect of Default on Installment Payments

In any disciplinary recommendation or order providing for installment payments of discipline costs or restitution, the Court must recommend or order that if the ~~member~~ attorney fails to timely make any installment payment, the unpaid balance is due and payable immediately unless relief is granted under these rules.

Rule 5.135 Mandatory Remedial Education in Ethics

- (A) **State Bar Ethics School.** ~~A member~~ An attorney must satisfactorily complete the State Bar Ethics School in all dispositions or decisions imposing discipline, unless the ~~member~~ attorney has completed the course within the prior two years or the Supreme Court orders otherwise.
- (B) **Comparable Alternative.** If ~~a member~~ an attorney resides in another jurisdiction and is unable to attend the State Bar Ethics School, the ~~member~~ attorney may seek authorization to attend a comparable remedial education course offered through a certified provider in the other jurisdiction by obtaining the prior approval of the Office of the Chief Trial Counsel and final approval of the State Bar Court.

Rule 5.136 Reimbursement to Client Security Fund

In any disciplinary recommendation or order, the Court must include a recommendation or order that the ~~member~~ attorney reimburse the Client Security Fund for any funds paid out under Business and Professions Code § 6140.5 because of the ~~member's~~ attorney's misconduct. Unless the Supreme Court orders otherwise or unless relief has been granted under these rules, the ordered reimbursement must be paid within 30 days after the effective date of the final disciplinary order or within 30 days after the Client Security Fund payment is disbursed, whichever is later.

Division 3. Review Department and Powers Delegated by Supreme Court

Rule 5.150 Petition for Interlocutory Review and for Review of Specified Matters

- (A) **Availability of Interlocutory Review and Review of Specified Matters.** As provided in these rules a party may petition for interlocutory review regarding significant issues requiring the Review Department to intervene before proceedings in the Hearing Department are complete if the issues are not readily remediable after trial. Other specified matters may be reviewed as provided by these rules of procedure.
- (B) **Time for Filing Petition.** Any aggrieved party may petition the Review Department for review of a Hearing Department judge's order within 15 days after the written order is served, or the oral order is made on the record, whichever is later. If a rule specifies a different time for seeking review, that time controls. If a timely motion for reconsideration of the hearing judge's order is filed, the time to seek review is extended until 15 days after the ruling on the motion for reconsideration is served.
- (C) **Contents of Petition.** Petitions under this rule must be accompanied by:
 - (1) a supporting memorandum of points and authorities containing specific citations to the relevant portions of the record in the Hearing Department; and

- (2) an appendix containing:
 - (a) a copy of the written order or, if none, a copy of the audiotaped record of the hearing at which the oral order was made, and
 - (b) copies of all pleadings filed with the Hearing Department in support of or in opposition to issuing the order.
- (D) **Filing and Service.** For all types of review, the petitioner must file the original and one copy of the petition and all supporting pleadings (including any required audiotape) with the Clerk. The petitioner must serve copies of the petition and all supporting pleadings under rule 5.26 on all other parties. If interlocutory review from an order is sought, the petitioner must also serve the hearing judge who issued the order.
- (E) **Response.** No response to a petition for interlocutory review is required unless the Review Department grants review or otherwise orders. A responding party may file and serve a response within 10 days after the order granting review is served.
- (F) **Filing and Service of Later Pleadings.** After the petition for interlocutory review is filed, any party who files a pleading with the Clerk, including the response to the petition, must file the original and one copy of such pleading with the Clerk, serve copies on all parties under rule 5.26, and serve copies on the hearing judge who issued the order from which interlocutory review is sought.
- (G) **Citations to Record; Supplemental Appendix.** All statements of fact in support of or in response to the petition must cite to the appended record. If material pertaining to the challenged order is part of the Hearing Department record and was omitted from the appendix prepared by the petitioning party, an opposing party may file and serve, together with the response, a supplemental appendix containing the omitted material.
- (H) **Motion for Stay.**
 - (1) A party who intends to file an interlocutory petition and who seeks a stay of proceedings in the Hearing Department must file the petition and concurrently make a motion to the hearing judge for a stay. The motion may be made orally on the record or in writing on shortened notice under rule 5.29. The motion must be ruled upon on an expedited basis.
 - (2) If the hearing judge denies the motion for stay, the petitioning party may move the Review Department to stay further Hearing Department proceedings in the matter until the Review Department files a ruling on the petition.
 - (a) The motion for stay must be filed within five days after the petitioning party receives notice that the hearing judge has denied the stay, or concurrently with the filing of the petition, whichever is later.

- (b) The motion must state that the hearing judge denied the previous motion for a stay and include a copy of the hearing judge's ruling, or, if none, a copy of the audiotape of the hearing at which the oral order was made, together with copies of any pleadings filed in support of or in opposition to the motion.
 - (c) The Presiding Judge may issue a temporary stay while the Review Department considers the motion for stay.
- (I) **Summary Denial.** The petition may be summarily denied if it does not meet the criteria set forth in subsection (A) or if the Review Department finds that the petition does not clearly demonstrate that the hearing judge's order was erroneous under the applicable standard of review.
- (J) **No Oral Argument.** The issues raised by the petition and any response will be decided by the Review Department without oral argument unless the Review Department orders otherwise.
- (K) **Standard of Review.** Except as otherwise specified in a rule authorizing the filing of a petition under this rule, the standard of review in proceedings under this rule is abuse of discretion or error of law.
- (L) **Decision.** The Review Department may deny the relief sought in the petition, or may grant it, in whole or in part. Relief may be subject to appropriate conditions imposed on the petitioning party. If a quorum of the Review Department is not available to rule on the petition in time to provide the petitioning party with meaningful relief, the Presiding Judge may act for the Review Department on any petition under this rule, but the Review Department en banc may reconsider the petition on its own motion or on motion of any party.

Rule 5.151 Requests for Review

- (A) **What May Be Reviewed.** Unless expressly provided otherwise in the rules governing a particular type of proceeding, all decisions and orders by hearing judges that fully dispose of an entire proceeding are reviewable by the Review Department at the request of any party under this rule.
- (B) **Timing.** Any party may file and serve a request for review within 30 days after the hearing judge's decision or order is served. If a post-trial motion is filed in the Hearing Department, a party seeking review must file and serve the request within 30 days after the hearing judge's ruling on the post-trial motion is served.
- (C) **Post-Trial Motion After Request Filed.** If a post-trial motion about a decision is filed in the Hearing Department after a request for review is filed,

any request for review of that decision will be vacated and the requesting party must file another request for review after the hearing judge's ruling on the post-trial motion is served.

- (D) **Certification and Transcript.** Unless otherwise ordered by the Presiding Judge, the request for review must certify that a trial transcript has been ordered and payment has been made as required under the Rules of Practice of the State Bar Court. Unless otherwise ordered by the Presiding Judge, if the party requesting review fails to timely order a transcript or to timely pay the required transcript cost, the Clerk will notify the party that the request will be dismissed unless, within five days after the Clerk's notice is served, the party: (1) tenders the required cost, or (2) upon a motion and showing of good cause, obtains an order from the Court granting an extension of time or permitting other arrangements satisfactory to the Court.
- (E) **Additional Parties' Requests for Review.** If any party files a request for review under rule 5.151, any opposing party may file a request for review within 10 days after the first party's request for review is served.
- (F) **Multiple Requests for Review.** If more than one party requests review, the requesting parties will equally divide the cost of the transcript. Each will file an appellant's brief under rule 5.152 and a responsive brief under rule 5.153(A). Each may file a rebuttal brief under rule 5.153(B).
- (G) **When Review Is Permitted.** Except as expressly permitted by these rules, no action of a hearing judge is reviewable by the Review Department until after the hearing judge enters a decision or order fully disposing of the entire proceeding.
- (H) **Withdrawal of Request for Review.**
 - (1) At any time before service of notice of the time and place of oral argument, a party who requested review may withdraw the request for review.
 - (2) After the Clerk has served notice of the time and place of oral argument, a request for review may be withdrawn only by order of the Presiding Judge upon written motion by the party who sought review.
 - (3) Unless otherwise ordered by the court, a withdrawal of request for review in its entirety shall leave standing the decision of the Hearing Department as the final decision of the court.

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.151.1 Number of Copies of Filed Documents

- (A)** Any party filing a request for review or any brief or pleading in the Review Department to be considered in bank shall file an original and four copies of such document.
- (B)** Any party filing a pleading to be determined by the Presiding Judge shall file an original and two copies.

Eff. January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1300.

Rule 5.151.2 Record on Review

Upon the filing of a timely request for review, the Clerk shall prepare the record on review. The record on review shall consist of all pleadings filed in the formal proceeding under review; the decision of the judge of the Hearing Department and all other orders relating to the matter under review; all exhibits offered or received in evidence; and all tape recordings and transcripts of testimony relating to the matter under review.

Eff. Revised January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1310.

Rule 5.152 Appellant's Brief

- (A) Time to File.** Within 45 days after the request for review is served or the Clerk serves the trial transcript, whichever occurs later, the appellant must file and serve an opening brief.
- (B) Format of Brief.** Each point in a brief shall appear separately under an appropriate heading, with subheadings if desired. The statement of any matter in the record shall be supported by appropriate reference to the record, including the name of any document referred to and the specific page thereof.

Every brief in excess of 10 pages shall be prefaced by a topical index of its contents and a table of authorities, separately listing cases, statutes, court rules, constitutional provisions, and other authorities.

- (C) Factual Issues on Review.** The appellant must specify the particular findings of fact that are in dispute and must include references to the record to establish all facts in support of the points raised by the appellant. Any factual error that is not raised on review is waived by the parties.

(D) Failure to File Brief. Unless otherwise ordered by the Presiding Judge, if the opening brief is not filed, the Clerk will notify the parties that the brief must be filed within five days after the Clerk's notice is served or:

- (1) The request for review will be dismissed with prejudice; and
- (2) If no other party requested review, the hearing judge's decision will become the State Bar Court's final decision.

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.152.1 Late Filings, Extensions of Time, Continuances, and Preference

Upon motion of a party and for good cause shown, the Presiding Judge may grant permission for late filings, including late filing of a request for review, for extensions of time for filing briefs, for continuance of oral argument, or for preference on the calendar.

Eff. Revised January 1, 2019.

Source: State Bar Ct. Rules of Prac., rule 1301.

Rule 5.153 Subsequent Briefs

(A) Responsive Brief. Within 30 days after the appellant's brief is served, the appellee may file and serve a responsive brief that meets the same formal requirements as the appellant's brief under rule 5.152(B) and (C). Unless otherwise ordered by the Presiding Judge, if the appellee's brief is not filed, the Clerk will notify the parties that the brief must be filed within five days after the Clerk's notice is served or:

- (1) the proceeding will be submitted on review without oral argument; or
- (2) if appellant requests or the Court orders oral argument, the appellee will be precluded from appearing.

(B) Rebuttal Brief. Within 15 days after the appellee's brief is served, the appellant may file and serve a rebuttal brief whose body is no more than 10 pages. For good cause, the Presiding Judge may extend the time to file, or may permit the brief's body to exceed 10 pages, or both.

(C) Brief of Amicus Curiae. A brief of amicus curiae may be filed by order of the Presiding Judge .

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.154 Oral Argument Before Review Department

Except as otherwise provided in these rules, the Review Department will give the parties an opportunity for oral argument. The parties may waive oral argument at any time up to five days before the date set for oral argument. Unless oral argument is waived or the parties agree to a shorter period of notice, written notice of the time and

place of oral argument must be served by the Clerk on the parties at least 30 days before the oral argument.

- (A) **Location of Oral Argument; Argument by Conference Telephone.** Unless otherwise ordered by the court, the Review Department will regularly hear oral arguments in San Francisco and Los Angeles. Oral argument shall be scheduled in the venue in which the trial took place. By written request filed with the Clerk at least 10 days prior to the date of oral argument, counsel entitled to present oral argument may request to do so by a conference telephone system operated by the State Bar Court. The Review Department may require counsel to appear in person.
- (B) **Duration of Oral Argument.** In a matter before the Review Department, each side shall have a maximum of 30 minutes for oral argument except as the Presiding Judge may otherwise direct.
- (C) **Expedited Oral Argument In Proceedings Underlying Business and Professions Code § 6007(c).** Any respondent having timely sought review of a decision by the Hearing Department on the matter underlying an order for inactive enrollment under Business and Professions Code section 6007(c) may move that the review of that underlying matter be set for oral argument on the next available calendar regardless of location. Such motion shall be filed and served no later than the last day for filing briefs.
- (D) **Time of Submission.** A proceeding pending in the Review Department is submitted when that Department has heard oral argument or has approved at the conclusion of oral argument unless otherwise ordered by the court.

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.155 Actions by Review Department

- (A) **Standard of Review under Rule 5.151.** The Review Department will independently review the record and may make findings, conclusions, or a decision or recommendation different from those of the hearing judge. The findings of fact of the hearing judge are entitled to great weight.
- (B) **Remand.** The Review Department may remand a proceeding to the Hearing Department for a new trial on specified issues, for a trial de novo, or for other proceedings. If a proceeding is remanded, the same hearing judge will preside unless that judge is unavailable or the Review Department orders otherwise.
- (C) **Issues Not Raised for Review.** The Review Department may take action on an issue that was not raised in the request for review or briefs of any party. Before it does so, the Review Department will notify the parties in writing of the issue before oral argument, and any party may file a supplemental brief about that issue. If the parties are not notified before oral argument, they may

make a motion to file supplemental briefs or for reconsideration under rule 5.158.

- (D) **En Banc Review.** The Review Department will decide matters before it en banc. Two judges constitute a quorum. A majority vote of the judges present and voting are sufficient to take any action or arrive at any decision.
- (E) **Time for Opinion.** The Review Department will file its opinion within 90 days after the matter is submitted, unless the proceeding is expedited and a procedural rule, a statute, or a Supreme Court rule requires a shorter period for filing the opinion.
- (F) **Disqualified Judge.** If one or more Review Department judges are disqualified or unavailable to serve, the Presiding Judge may designate a hearing judge appointed by the Supreme Court under Business and Professions Code § 6079.1 to act in the Review Department judge's place, if the designated hearing judge took no part in considering or deciding the matter in the Hearing Department. If the Presiding Judge is disqualified or unavailable to act and has not designated another judge to act in his or her place, the Acting Presiding Judge may act in place of the Presiding Judge.
- (G) **Disbarment Recommendation.** If the Review Department recommends disbarment, it must include in its opinion an order that the ~~member~~ attorney be enrolled as an inactive ~~member~~ attorney under Business and Professions Code § 6007(c)(4). Unless otherwise ordered by the Court, the order takes effect on personal service or three days after service by mail, whichever is earlier.
- (H) **State Bar Court's Annual Report.** By March 1 of each year, the State Bar Court must prepare and submit to the Chief Justice of the Supreme Court an annual report describing how the Review Department complied with the requirements of subsection (E) during the preceding calendar year.

Rule 5.156 Additional Evidence Before Review Department

- (A) **Record and Excluded Evidence.** Except as provided by this rule or by order of the Review Department, the Review Department considers only evidence that is a part of the record made in the Hearing Department, or evidence offered and excluded that the Review Department determines should have been admitted.
- (B) **Augmenting Record: Judicial Notice and Stipulations.** On its own motion or at the request of a party, the Review Department may take judicial notice of orders and decisions of the Supreme Court or the State Bar Court arising out of any State Bar Court proceeding involving the party who is the subject of the proceeding under review, whether or not such orders and decisions were introduced as evidence in the Hearing Department. The Review Department may also admit other judicially noticeable facts or stipulated facts such as

those bearing on restitution or rehabilitation occurring after the evidentiary proceedings before the hearing judge ended.

- (C) **Augmenting Record: Additional Evidence from a Party.** Any party may move to present additional evidence occurring after evidentiary proceedings before the hearing judge ended, including evidence bearing on restitution or rehabilitation. Alternatively, any party may move to remand the proceeding so the party may file a motion to reopen the record under rule 5.113. On this motion, or its own motion after notice to the parties, the Review Department may appoint a hearing judge as a referee to receive evidence and make proposed additional findings of fact.
- (D) **Procedures to Augment or Correct Record.**
- (1) A motion or stipulation to augment or correct the record on review must be identified as such and filed and served as a separate pleading on the date the appellant's opening brief is due to be filed.
 - (2) All other parties may file and serve a response to the motion to augment or correct the record as a separate pleading on the date the appellee's brief is due to be filed. If a motion to augment or correct the record is filed after the appellant's opening brief is filed, any response to the motion must be filed and served within 10 days after the motion is served.
- (E) **Augmentation Permitted.** The Review Department will grant requests to augment or correct the record on review only if it determines that the original record is incomplete or incorrect, or as permitted by subsections (A) through (D) above.

Rule 5.157 Summary Review Program

- (A) **Scope for Summary Review.** The Review Department may summarily review matters raising legal issues on review that can be decided without a transcript of the entire record of State Bar hearings or the normal briefing schedule.
- (B) **Eligibility for Summary Review.** A matter is eligible for summary review if the requesting party does not challenge the hearing judge's findings of fact. The decision of the hearing judge will be the final State Bar Court decision on all material findings of fact and the parties will be bound by the facts as provided for under rule 5.54. The issues on review are limited to:
- (1) contentions that the facts support conclusions of law different from those reached by the hearing judge;
 - (2) disagreement about the appropriate disposition or degree of discipline; or
 - (3) other questions of law.
- (C) **Issues Waived.** Any issue or contention not raised by the parties is waived.

- (D) **Inapplicable and Applicable Rules.** Rules 5.151 – 5.154 do not apply to summary review matters. Rules 5.155, 5.156, and 5.158 apply to summary review matters.
- (E) **Requests for Summary Review.**
- (1) A party must ask the Review Department to designate the matter for summary review. The request must be filed within 30 days after the hearing judge's decision is served or, if a post-trial motion has been made, within 30 days after the hearing judge's ruling on the motion.
 - (2) If review is sought under rule 5.151, the Review Department may notify the parties on its own motion that it considers the matter eligible for summary review, and may invite the party seeking review to elect summary review. If the party declines to elect summary review, the matter will proceed under rules 5.151-5.154.
 - (3) If a request for summary review under this rule and a request for review under rule 5.151 are both timely filed in the same proceeding, the matter will proceed under rules 5.151-5.154. But the Review Department may apply subsection (E)(2) of this rule.
- (F) **Opening Memorandum.** Instead of an opening brief, the party seeking summary review must file an opening memorandum within 20 days after the order designating the proceeding for summary review is served. The memorandum must not exceed 20 pages. It must include a copy of the decision from which review is sought and:
- (1) concisely state the issues for review, including, if applicable, how the conclusions of law or disposition or both should be modified;
 - (2) list the supporting authorities cited for the contentions raised on review, and concisely state the proposition for which each authority is cited; and
 - (3) state whether or not oral argument is requested.
- (G) **Responsive Memorandum.** Within 15 days after the opening memorandum is served, the opposing party may file a responsive memorandum that does not exceed 20 pages and:
- (1) states whether the party disputes any issue raised or relief requested in the opening memorandum, and, if so, the party's position on the disputed issue or request for relief;
 - (2) states whether the party believes summary review is not proper;
 - (3) concisely states any additional issues for review, including, if applicable, how the conclusions of law or disposition or both should be modified;
 - (4) lists the supporting authorities cited for the party's position, and concisely state the proposition for which each authority is cited; and
 - (5) states whether or not oral argument is requested.
- (H) **Reply Memorandum.** Within 10 days after the responsive memorandum is served, the party seeking summary review may file a reply memorandum not

to exceed five pages addressing any new issues raised in the responsive memorandum.

- (I) **Oral Argument.** Unless specifically requested by a party or ordered by the Review Department on its own motion, oral argument will not be heard in summary review proceedings. If requested or ordered, oral argument will be by telephone conference on 15 days' notice. The telephone conference will originate from one or more designated courtrooms that will be open to the public if the proceeding is public. The judges of the Review Department may participate from designated courtrooms at different locations. Each party may present its oral argument either by telephone or in person at one of the designated courtrooms.
- (J) **Full Record After Summary Review Granted.**
 - (1) When summary review is granted, nothing in this rule restricts the Review Department's authority to independently review the full record of State Bar proceedings or to require a full or partial transcript and briefing schedule before oral argument of any case.
 - (2) If the Review Department determines that it needs to review the full record, it may order the matter reviewed under rules 5.151-5.154. In this event, the party requesting summary review may withdraw the request within 30 days after the Review Department's order is served.
- (K) **Denial of Summary Review.** If the Review Department determines that summary review is not appropriate, then within 10 days after the order is served, a party may request review under rule 5.151.
- (L) **Review by the Supreme Court.** After the Review Department files its opinion in a summary review matter, a party who intends to petition the Supreme Court for review must first file with the Review Department a certification that a trial transcript has been ordered and appropriate payment has been made. The certification must be filed within 15 days from service of the Review Department's opinion. The Supreme Court requires a complete record, including a trial transcript.

Rule 5.158 Reconsideration of Review Department Actions

- (A) **Reconsideration Not Automatic.** The Review Department does not reconsider opinions or orders unless it otherwise orders on its own motion or on a request for reconsideration filed and served by a party within 15 days after the Review Department's ruling is served. If the record in the proceeding has not yet been sent to the Supreme Court and good cause is shown, the time to file a request for reconsideration may be extended.
- (B) **Opposing Reconsideration.** If a request for reconsideration is filed, any opposing party may file a response within 10 days of service after the request is served.

Rule 5.159 Review Department Opinions as Precedent

- (A) Published and Unpublished Opinions.** Review Department opinions that the Court designates for publication are published in the California State Bar Court Reporter or other publications, as directed by the Board of Trustees. Hearing Department decisions are not published.
- (B) Precedential Value.** A published opinion that has no review pending and either takes effect without a Supreme Court order, or is adopted by a Supreme Court order, is binding on the Hearing Department and citable as precedent in the State Bar Court.
- (C) Petition for Review Filed.** If a party to the proceeding files a petition for writ of review with the Supreme Court, the opinion in that proceeding cannot be cited as precedent unless the Supreme Court denies the petition for writ of review, dismisses the writ without issuing an opinion, or orders the Review Department opinion to remain citable.
- (D) Depublished Opinions.** If the Supreme Court orders a Review Department opinion depublished, the opinion is not citable as precedent.
- (E) Criteria for Publication.** By majority vote, the Review Department may designate for publication an opinion which:

 - (1) Establishes a new rule, applies an existing rule to a set of facts significantly different from those stated in published opinions, or modifies, or criticizes with reasons given, an existing rule;
 - (2) Resolves or creates an apparent conflict in the law;
 - (3) Involves a legal issue of continuing interest to the public generally and/or to ~~members~~ attorneys of the State Bar, or one which is likely to recur;
 - (4) Makes a significant contribution to legal literature by collecting and analyzing the existing case law on a particular point or by reviewing and interpreting a statute or rule; or
 - (5) Makes a significant contribution to the body of disciplinary case law by discussing the appropriate degree of discipline based on a set of facts and circumstances materially different from those stated in published opinions.
- (F) Partial Publication.** The Review Department may, by majority vote, designate for publication only that part of the opinion which satisfies the requirements of this rule, including any additional material, factual or legal, that aids in the interpretation of the published part of the opinion.
- (G) Requirements for Publication of Certain Opinions.** Opinions in non-public matters shall not be designated for publication or for partial publication unless all parties to the proceeding having a right to confidentiality have consented to publication.

(H) Requesting Publication or Non-Publication. Any person may request publication or partial publication of an opinion not designated for publication, or publication in full of an opinion designated for partial publication. The request shall be made promptly by letter stating concisely why the opinion meets one or more of the standards set forth in this rule. The letter shall be addressed to the Presiding Judge, and shall be accompanied by proof of service on all parties to the proceeding. Any party to the proceeding may respond to the letter, within 10 days of service, by means of a letter to the Presiding Judge accompanied by proof of service on all parties to the proceeding and on the person requesting publication. The decision regarding the request shall be made by majority vote of the Review Department.

- (1) Within 20 days after the filing of an opinion designated for publication, any person may request by letter that the opinion not be published, that it be published only in part, or that it be published in a form which does not identify any party other than the State Bar. The request shall state the nature of the person's interest and shall state concisely the reasons why the change requested should be made. The request shall not exceed 10 pages and shall be accompanied by proof of service to each party to the action or proceeding.
- (2) Any person may, within 10 days after receipt by the Review Department of a request for depublication, submit a response, either joining in the request or stating concisely the reasons why the opinion should remain published. A response shall state the nature of the person's request. Any response shall not exceed 10 pages and shall be accompanied by proof of service to each party to the action or proceeding, and person requesting depublication.

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.160 Settlement Conferences on Review

- (A) Application.** After a hearing judge's decision is filed, a settlement conference will be scheduled if requested in writing by both parties. A request by either party that declares that the other party joins in the request is adequate. A settlement conference under this rule will be before a hearing judge or a judge pro tem assigned by the Presiding Judge.
- (B) Purpose.** A settlement conference is to evaluate the merits of seeking review, consider a narrowing of the issues on review, and discuss settlement of the entire matter and other relevant issues.
- (C) Timing of Request.**
 - (1) Before a Request for Review Is Filed. A request for a settlement conference must be filed with the Clerk of the Review Department

within seven days of service of a hearing judge's decision. If a post-trial motion is filed after the decision, the request must be filed within seven days of service of the ruling on the motion.

- (2) After a Request for Review Is Filed. A request for a settlement conference may be filed with the Clerk of the Review Department any time prior to service of the notice of oral argument.
- (D) **Date of Conference.** The Clerk will provide a settlement conference date within 15 days of the request. The parties must be prepared to accommodate the date provided by the Clerk or the conference may not be held.
- (E) **Settlement Conference Statement.** No later than two days before the date set for the settlement conference, a party may serve on the other party and lodge with the clerk of the Review Department a settlement conference statement.
- (F) **Court Approval of Settlement.**
 - (1) The assigned settlement judge must approve a stipulation reached between the parties under this rule. The judge must determine whether the stipulation is fair to the parties and adequately protects the public, courts and profession. In addition, the judge must determine whether a stipulation that seeks to modify the hearing judge's decision as to any fact, conclusion of law, disposition or other provision is supported by an adequate factual and legal basis.
 - (2) The stipulation must be submitted to the assigned settlement judge within 10 days of the settlement conference.
 - (3) If the stipulation is rejected and a request for review has not previously been filed, the parties have 10 days from service of the order to file a request for review under rule 5.151.
- (G) **Review Proceedings.** Except as provided under subdivision (F)(3) or as otherwise ordered by the Presiding Judge, the request for a settlement conference or the pendency of settlement proceedings will not suspend the time to request review nor suspend the time to prepare the record for review under rule 5.151.
- (H) **Confidentiality.** Except as otherwise required by law, information disclosed to the Settlement Conference judge and the parties in the conference is confidential and must not be disclosed to anyone not participating in the settlement conference, including the Review Department.

Rule 5.161 Exercise of Powers Delegated by Supreme Court

- (A) **Authorized Actions Similar to Those of State Bar Court.** State Bar Court actions authorized under California Rules of Court, rule 9.10(a)-(e) will be taken by the Review Department, except that:

- (1) a hearing judge will initially act on any modification of probation under California Rules of Court, rule 9.10(c) as provided in rules 5.300-5.306; and
 - (2) if a motion is made to extend the time within which ~~a member~~ an attorney must take and pass a professional responsibility examination under California Rules of Court, rule 9.10(b), and the deadline for complying has not passed, a hearing judge will act on the motion.
- (B) Additional Authorized Actions.** In addition to the actions in subsection (A), the Review Department will act on the following:
- (1) Motions to vacate and motions to delay and temporarily stay the effective date of orders of interim suspension or orders of suspension issued under California Rules of Court, rule 9.10(a), (b), or (e). These motions are governed by rule 5.162 of these procedures.
 - (2) Motions by the Chief Trial Counsel to reconsider a decision not to place an eligible ~~member~~ attorney on interim suspension. Any motion must be filed within 15 days after notice of the decision, show proof of service on all opposing parties under rule 5.26, and show the legal basis for entering an order of interim suspension. Opposition to the motion must be filed and served within 10 days after the motion is served. Parties must file the original and three copies of all pleadings submitted. For good cause, the Review Department may grant leave to file a motion more than 15 days after notice of the decision.

Rule 5.162 Motions for Relief under California Rules of Court, Rule 9.10

- (A) Filing Motions.** Motions to the Review Department or the Hearing Department, as provided in rule 5.161(A) of these procedures for relief under California Rules of Court, rules 9.10(a) (to delay or stay interim suspension), 9.10(b) (to extend time to take and pass professional responsibility examination, or vacate suspension for failure to do so), or 9.10(e) (to delay or stay disciplinary suspension ordered by Supreme Court), must:
- (1) be filed with the Clerk of the State Bar Court within 15 days after the suspension order (if any) is filed;
 - (2) show good cause for the relief requested; and
 - (3) show proof of service under rule 5.26. Service must be made on the deputy chief trial counsel in the appropriate venue.
- (B) Pleadings Related to Motions.** Parties must file the original and three copies of all pleadings related to motions under this rule. The legend “RULE OF COURT 9.10 MATTER” must appear in the caption immediately below the case number and above the title of the pleading.
- (C) Extension of Time to File Motion or Temporary Relief.** For good cause, the Review Department or the Presiding Judge may grant leave to file a motion more than 15 days after a suspension order is filed, or may order temporary relief to the extent necessary for the Review Department to act on the merits of the motion

- (D) **Motion to Delay or Stay Interim Suspension.** A motion under California Rules of Court, rule 9.10(a) to delay or temporarily stay the effect of an order of interim suspension imposed under Business and Professions Code § 6102(a) or to obtain an exception to the rule should include the following information as part of the ~~member's~~ attorney's showing of good cause:
- (1) the date the ~~member~~ attorney was convicted and whether the ~~member~~ attorney has appealed the conviction;
 - (2) the steps the ~~member~~ attorney has taken to prepare for the impending suspension;
 - (3) the nature and extent of the ~~member's~~ attorney's current practice of law and the titles, court case numbers, and dates of any future hearings or trials, and the dates and nature of other important legal events for which clients need representation; whether in cases pending before a tribunal, the tribunal has been notified of the ~~member's~~ attorney's impending suspension; and whether these legal events may be rescheduled or whether substitute counsel is available;
 - (4) for each matter that is or would be affected by the ~~member's~~ attorney's suspension: when the ~~member~~ attorney undertook representation of the client; whether the client has been notified of the conviction, the impending suspension, and this motion; and whether the client would be substantially prejudiced by denial of this motion. If feasible, the motion should be accompanied by client declarations in support; and
 - (5) whether the ~~member~~ attorney has notified the Office of Trials of the intended motion, and if so, when, how, and to whom.

- (E) **Motion Regarding Professional Responsibility Exam.** ~~A member~~ An attorney seeking, under California Rules of Court, rule 9.10(b) to extend the time ordered for taking and providing proof of passage of a professional responsibility examination or to vacate the ~~member's~~ attorney's suspension for failing to take and pass the ordered examination must include with any motion made to the Review Department, or to the Hearing Department as provided in rule 5.161(A), the following information as part of the ~~member's~~ attorney's showing of good cause:
- (1) whether the ~~member~~ attorney has taken the ordered examination and, if so, on what date or dates, what steps the ~~member~~ attorney took to prepare for the examination, and the score received on each occasion;
 - (2) if the ~~member~~ attorney did not take the examination on any available dates, the reason for not doing so on each of those dates;
 - (3) the nature and extent of the ~~member's~~ attorney's current legal practice and the titles, court case numbers, and dates of any future hearings or trials, and the dates and nature of other important legal events for which clients need representation during the time the ~~member~~ attorney would be suspended if the motion is not granted; whether in cases pending before a tribunal, the tribunal has been notified of the ~~member's~~ attorney's impending suspension; and whether these legal events may be rescheduled or whether substitute counsel is available;

- (4) for each matter that is or would be affected by the ~~member's~~ attorney's suspension: when the ~~member~~ attorney undertook representation of the client; whether the client has been notified of this motion; and whether the client would be substantially prejudiced by denial of this motion. If feasible, the motion should be accompanied by client declarations in support; and
- (5) whether the ~~member~~ attorney has notified the Office of Trials of the intended motion, and if so, when, how, and to whom.

(F) Motion to Delay or Stay Actual Suspension. ~~A member~~ An attorney seeking, under California Rules of Court, rule 9.10(e), to delay or temporarily stay the actual suspension from the practice of law previously ordered by the Supreme Court must include with any motion made to the Review Department the following information as part of the ~~member's~~ attorney's showing of good cause:

- (1) whether the suspension resulted from a stipulation or a decision, the date the ~~member~~ attorney became aware of the final order or decision of the State Bar Court recommending suspension, and the date the ~~member~~ attorney became aware that the proposed order of suspension had been sent to the Supreme Court;
- (2) what steps the ~~member~~ attorney has taken to prepare for the impending suspension;
- (3) the nature and extent of the ~~member's~~ attorney's current practice of law and the titles, court case numbers, and dates of any future hearings or trials, and the dates and nature of other important legal events for which clients need representation during the time the ~~member~~ attorney would be suspended if the motion is not granted; whether in cases pending before a tribunal, the tribunal has been notified of the ~~member's~~ attorney's impending suspension; and whether these legal events may be rescheduled or whether substitute counsel is available;
- (4) for each matter that is or would be affected by the ~~member's~~ attorney's suspension: when the ~~member~~ attorney undertook representation of the client; whether the client has been notified of this motion; and whether the client would be substantially prejudiced by denial of this motion. If feasible, the motion should be accompanied by client declarations in support; and
- (5) whether the ~~member~~ attorney has notified the Office of Trials of the intended motion, and if so, when, how, and to whom.

Division 4. Involuntary Inactive Enrollment Proceedings

Chapter 1. Bus. & Prof. Code § 6007(b)(1): Insanity or Mental Incompetence

Rule 5.170 Nature of Proceeding

These rules apply to proceedings that involve, or may involve, ~~a member's~~ an attorney's transfer to inactive enrollment under Business and Professions Code § 6007(b)(1).

Rule 5.171 Beginning Proceeding

- (A) **Initial Pleading.** The Office of the Chief Trial Counsel or any ~~member~~ attorney may make a motion to transfer ~~a member~~ an attorney to involuntary inactive enrollment accompanied by evidence that the ~~member~~ attorney has asserted a claim of insanity or mental incompetence as specified in Business and Professions Code § 6007(b)(1). The Court may issue an order to show cause if ~~a member~~ an attorney who is a party to a proceeding before the Court asserts a claim of insanity or mental incompetence as specified in § 6007(b)(1).
- (B) **Service.** The motion or order to show cause must be served on all parties under rule 5.25.

Rule 5.172 Proceedings on Motion; Actions Taken by Court

A motion under these rules is governed by the rules applicable to motions.

- (A) **Motion Granted.** If the evidence received shows clearly and convincingly that the order is appropriate under Business and Professions Code § 6007(b)(1), the court may issue an order, without further notice or hearing, enrolling the ~~member~~ attorney as an inactive ~~member~~ attorney.
- (B) **Motion Denied.** If the evidence received does not show clearly and convincingly that an order of involuntary inactive enrollment is authorized by § 6007(b)(1), the court may:
- (1) issue an order denying the motion; or
 - (2) conduct further proceedings to determine whether the ~~member~~ attorney should be enrolled as an inactive ~~member~~ attorney.

Rule 5.173 Proceedings on Order to Show Cause

If the Court issues an order to show cause, the parties have 10 days from the date the order is served to file and serve responses, unless otherwise ordered. The Court will act after the responses are filed or the time to file expires.

- (A) **Order for Inactive Enrollment.** If the evidence received shows clearly and convincingly that the order is appropriate under Business and Professions Code § 6007(b)(1), the Court may issue an order, without a hearing, enrolling the ~~member~~ attorney as an inactive ~~member~~ attorney.
- (B) **Refusal of Request for Order.** If the evidence received does not show clearly and convincingly that an order of involuntary inactive enrollment would be authorized by § 6007(b)(1), the Court may:
- (1) decline to order the ~~member's~~ attorney's involuntary inactive enrollment; or
 - (2) conduct further proceedings to determine whether the ~~member~~ attorney should be enrolled as an inactive ~~member~~ attorney.

Rule 5.174 Representation by Counsel

- (A) **Appointment of Counsel.** If further proceedings are conducted under rules 5.172 or 5.173 and the ~~member~~ attorney is not represented by counsel, the Court may appoint counsel without cost to the ~~member~~ attorney. By court order, appointed counsel will be compensated for reasonable expenses and fees for work done on matters before the Court or for seeking review from the California Supreme Court of a Review Department decision ordering or upholding an order of inactive enrollment. Compensation will be at an hourly rate fixed by the Executive Committee. The Court will determine the reasonableness of counsel's fees and expenses.
- (B) **Copies of Record.** An appointed counsel may ask the Clerk to prepare and furnish, free of charge, copies of compact disks, audiotapes, or transcripts of all or any part of any relevant State Bar Court proceeding involving the ~~member~~ attorney.
- (C) **Member's Attorney's Failure or Inability to Assist Counsel.** The ~~member's~~ attorney's failure or inability to assist counsel is not in itself a reason to abate the Business and Professions Code § 6007(b)(1) proceeding, or a basis for a continuance, or grounds for a motion by counsel to be relieved as attorney of record in proceedings under these rules.
- (D) **Authority to File Motions.** Appointed counsel have the authority to file motions to abate or continue other pending State Bar Court proceedings involving the same ~~member~~ attorney, and will be compensated for doing so as provided in paragraph (A).
- (E) **Review of Award.** The counsel for whom the Court orders an award of costs or fees or both may file a petition under rule 5.150 for review of the hearing judge's determination of the award's amount within 15 days after the order is served. The action of the Review Department on the petition is the State Bar's final decision on the award's amount.

Rule 5.175 Effective Date

An order of involuntary inactive enrollment under Business and Professions Code § 6007(b)(1) takes effect on the earlier of personal service or three days after service by mail, unless the Court for good cause orders it to take effect on another date.

Rule 5.176 Review

An order granting or denying involuntary inactive enrollment under Business and Professions Code § 6007(b)(1) is reviewable under rule 5.150.

Rule 5.177 Inapplicable Rules

The following rules do not apply to proceedings on a motion or order to show cause under Business and Professions Code § 6007(b)(1):

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.65-5.71 (discovery); rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

Chapter 2. Bus. & Prof. Code § 6007(b)(2): Assumption of Jurisdiction Over Law Practice

Rule 5.180 Nature of Proceeding

These rules apply to proceedings that involve, or may involve, ~~a member's~~ an attorney's transfer to inactive enrollment under Business and Professions Code § 6007(b)(2).

Rule 5.181 Beginning Proceeding

- (A) **Initial Pleading.** The Office of the Chief Trial Counsel must file a motion for involuntary inactive enrollment, supported by evidence that a superior court has issued an order assuming jurisdiction over ~~a member's~~ an attorney's law practice under Business and Professions Code § 6180 or § 6190.
- (B) **Service.** The motion must be served on the ~~member~~ attorney under rule 5.25.

Rule 5.182 Proceedings on Motion

A motion under these rules is governed by the rules applicable to motions.

- (A) **Motion Granted.** If the evidence received shows clearly and convincingly that the order is appropriate under Business and Professions Code § 6007(b)(2), the Court may issue an order, without further notice or hearing, enrolling the ~~member~~ attorney as an inactive ~~member~~ attorney, and subject to any appropriate exceptions specified in the court order assuming jurisdiction over the ~~member's~~ attorney's law practice.
- (B) **Motion Denied.** If the evidence received does not show clearly and convincingly that an order of involuntary inactive enrollment is authorized by § 6007(b)(2), the Court may:
 - (1) issue an order denying the motion; or
 - (2) conduct further proceedings to determine whether the ~~member~~ attorney should be enrolled as an inactive ~~member~~ attorney. The issues in any further proceedings are limited to determining whether clear and convincing evidence shows that a superior court has issued an order assuming jurisdiction over ~~a member's~~ an attorney's law practice under Business and Professions Code § 6180 or § 6190, and

if so, whether such order remains in effect and provides for any exceptions.

Rule 5.183 Order of Involuntary Inactive Enrollment

The Court may not impose interim remedies under Business and Professions Code § 6007(h) in lieu of inactive enrollment in ruling on a motion under these rules. But when necessary to effectuate any exceptions in a superior court's order, the Court may make exceptions to the order of inactive enrollment.

Rule 5.184 Effective Date

An order of involuntary inactive enrollment under Business and Professions Code § 6007(b)(2) takes effect on the earlier of personal service or three days after service by mail, unless the Court for good cause orders it to take effect on another date.

Rule 5.185 Review

An order granting or denying a motion for involuntary inactive enrollment under Business and Professions Code § 6007(b)(2) is reviewable under rule 5.150.

Rule 5.186 Inapplicable Rules

The following rules do not apply to proceedings on a motion under Business and Professions Code § 6007(b)(2):

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.65-5.71 (discovery); rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

Chapter 3. Bus. & Prof. Code § 6007(b)(3): Mental Infirmity, Illness, or Habitual Use of Intoxicants

Rule 5.190 Nature of Proceeding

These rules apply to proceedings that involve, or may involve, ~~a member's~~ an attorney's transfer to inactive enrollment under Business and Professions Code § 6007(b)(3).

Rule 5.191 Beginning Proceeding

- (A) **Probable Cause Required.** To begin a proceeding, the Court must determine that there is probable cause and issue a notice to show cause. Because the determination is administrative in character, no notice or hearing is required.
- (B) **Motion to Show Cause.**
- (1) The Court may determine on its own motion, without notice or hearing, that probable cause exists to issue a notice to show cause; or
 - (2) Any party may file a motion asking the Court to issue a notice to show cause. The motion must be served on all opposing parties under rule 5.25. Unless ordered by the court, no response to the motion may be filed.
- (C) **Probable Cause Hearing.** The Court may order a hearing to determine whether a notice to show cause should issue if, in the Court's opinion, it will materially contribute to determining whether probable cause exists. All hearings will be informal. Later proceedings will not be invalidated or otherwise prejudiced if a hearing is not held.
- (D) **Notice to Show Cause.** When a notice to show cause is issued under this rule:
- (1) the Court will promptly appoint counsel under rule 5.192 if the ~~member~~ attorney is not represented by counsel;
 - (2) the Clerk will promptly serve the notice to show cause on all parties under rule 5.25;
 - (3) each party will file and serve a response to the notice to show cause within 20 days from the later of:
 - (a) the date that the notice to show cause is served, or
 - (b) the date that the order appointing counsel is served (if counsel is appointed).
- (E) **Judicial Disqualification.** Except as provided under rule 5.46, the judge who conducts the probable cause hearing will not be disqualified from conducting the hearing on the merits.

Rule 5.192 Representation by Counsel

- (A) **Appointment of Counsel.** ~~A member~~ An attorney must be represented by counsel by the issuance date of the notice to show cause. If the ~~member~~ attorney is not represented, the Court must appoint counsel without cost to the ~~member~~ attorney. By court order, appointed counsel will be compensated for reasonable expenses and fees for work done on matters before the Court or for seeking review from the California Supreme Court of a Review Department decision ordering or upholding an order of inactive enrollment. Compensation will be at an hourly rate fixed by the Executive Committee. The Court will determine the reasonableness of counsel's fees and expenses.

- (B) **Copies of Record.** An appointed counsel may ask the Clerk to prepare and furnish, free of charge, copies of tapes or transcripts of all or any part of any relevant State Bar Court proceeding involving the ~~member~~ attorney, including any hearing held under rule 5.191(C).
- (C) **~~Member's~~ Attorney's Failure or Inability to Assist Counsel.** The ~~member's~~ attorney's failure or inability to assist counsel is not in itself a reason to abate the Business and Professions Code § 6007(b)(3) proceeding, or a basis for a continuance, or grounds for a motion by counsel to be relieved as attorney of record in proceedings under these rules.
- (D) **Authority to File Motions.** Appointed counsel have the authority to file motions to abate or continue other pending State Bar Court proceedings involving the same ~~member~~ attorney, and will be compensated for doing so as provided in subsection (A).
- (E) **Review of Award.** The counsel for whom the Court orders an award of costs or fees or both may file a petition under rule 5.150 for review of the hearing judge's determination of the award's amount within 15 days after the order is served. The action of the Review Department on the petition is the State Bar's final decision on the award's amount.

Rule 5.193 Failure to Comply with Order for Physical or Mental Examination

- (A) **Failure as Probable Cause.** If a ~~member~~ an attorney fails to obey an order for physical or mental examination issued under Business and Professions Code § 6053 and rule 5.68 of these rules, that fact may constitute probable cause to issue a notice to show cause.
- (B) **Failure as Evidence.** After the Court issues a notice to show cause, if the ~~member~~ attorney fails without good cause to obey an order of the Court for the ~~member~~ attorney to undergo a physical or mental examination issued under § 6053 and rule 5.68 of these rules, that failure may be considered as evidence in determining whether the ~~member~~ attorney should be transferred to inactive enrollment. But the failure does not in itself warrant a transfer.

Rule 5.194 Stipulation for Transfer to Inactive Enrollment

- (A) **Binding Effect.** Subject to the Court's approval, the parties may stipulate to a ~~member's~~ an attorney's transfer to inactive enrollment. The stipulation will be binding on the parties unless the Court rejects it or, for good cause, relieves the parties from the binding effect.
- (B) **Contents of Stipulation.** If no finding of probable cause has been made, the stipulation will include a waiver of the requirement for a finding of probable cause and will include the following statements:

- (1) a statement about the condition that is the basis for the transfer to inactive enrollment;
 - (2) that the ~~member~~ attorney is unable to practice law competently or without danger to the interests of the ~~member's~~ attorney's clients or to the public;
 - (3) that the ~~member~~ attorney understands that if the stipulation is approved, the ~~member~~ attorney will not be allowed to practice law until the ~~member~~ attorney petitions for transfer to active enrollment, and the petition is granted; and
 - (4) that the ~~member~~ attorney understands that transfer to inactive enrollment is grounds for the superior court to assume jurisdiction over the ~~member's~~ attorney's practice.
- (C) **Signing the Stipulation.** The ~~member~~ attorney, the ~~member's~~ attorney's counsel of record, and the deputy trial counsel must sign the stipulation. If the ~~member~~ attorney has no counsel of record, the Court will appoint counsel under rule 5.192, who will review and approve the stipulation before it is submitted to the hearing judge.
- (D) **Approval of Stipulation.** An order approving a stipulation will specify the effective date of the inactive enrollment. If no date is specified, the inactive enrollment takes effect on the earlier of personal service or three days after service by mail of the order.

Rule 5.195 Hearing on Merits

- (A) **Time of Hearing.** If a hearing is ordered, it will be held as soon as practicable after the notice to show cause is issued. Time will be allowed to appoint counsel, to prepare a defense, and to complete appropriate discovery or a physical or a mental examination.
- (B) **Notice.** The Clerk must serve notice of the hearing on the ~~member~~ attorney, the ~~member's~~ attorney's counsel, and the deputy trial counsel at least 30 days before the hearing date.
- (C) **Exhibits and Testimony.** Exhibits and testimony from the probable cause hearing will be admissible in the hearing on the merits if they are relevant and material to the issues. But:
- (1) any portion of an exhibit or testimony that would be inadmissible if offered for the first time at the hearing on the merits may be objected to; and
 - (2) if prior testimony is offered, the party offering the testimony must make the witness available to testify at the hearing on the merits. Either party may elicit additional direct testimony to supplement the prior testimony. The witness may be cross-examined by the opposing party.

Rule 5.196 Decision

- (A) **Inactive Enrollment.** If the Court finds that clear and convincing evidence warrants involuntary inactive enrollment under Business and Professions Code § 6007(b)(3), it will enroll the ~~member~~ attorney as an inactive ~~member~~ attorney. The Court will also make appropriate findings about the ~~member's~~ attorney's ability to conduct or assist in defending himself or herself in any disciplinary proceedings.
- (B) **Dismissal.** If the evidence is insufficient, the Court will dismiss the proceeding. Unless otherwise ordered for good cause, the dismissal will be with prejudice to starting a new proceeding based solely on the facts alleged in the dismissed proceeding, but without prejudice to starting a new proceeding based on additional or different facts.

Rule 5.197 Effective Date

An order of involuntary inactive enrollment under Business and Professions Code § 6007(b)(3) takes effect on the earlier of personal service or three days after service by mail, unless the Court for good cause orders it to take effect on another date.

Rule 5.198 Review

An order granting or denying involuntary inactive enrollment under Business and Professions Code § 6007(b)(3) is reviewable under rule 5.150.

Rule 5.199 Inapplicable Rules

The following rules do not apply in a proceeding under Business and Professions Code § 6007(b)(3):

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.80-5.100 (default; obligation to appear at trial) and rules 5.105-5.108 (admission of certain evidence).

Chapter 4. Bus. & Prof. Code § 6007(b): Transfer from Inactive to Active Enrollment

Rule 5.205 Petition for Transfer to Active Enrollment

~~A member~~ An attorney who was transferred to inactive enrollment under Business and Professions Code § 6007(b) may petition to terminate the inactive order, with or without

interim remedies. The petition must be verified, and must state the facts alleged to warrant the termination of the order. The petition must be addressed to the Hearing Department, filed with the Clerk, and served on the Office of the Chief Trial Counsel under rule 5.25.

Rule 5.206 Medical and Hospital Records

The ~~member~~ attorney must authorize the State Bar to examine and copy medical, hospital, and related records relevant to the ~~member's~~ attorney's original mental infirmity, illness, or addiction, and related to the ~~member's~~ attorney's present condition. The authorizations must be written and attached to the petition.

Rule 5.207 Stipulation for Transfer to Active Enrollment

- (A) **Binding Effect.** Subject to the Court's approval, the parties may stipulate to a ~~member's~~ an attorney's transfer to active enrollment. The stipulation will be binding on the parties unless the Court rejects it or, for good cause, relieves the parties from the binding effect.
- (B) **Contents of Stipulation.** The stipulation must include the following statements:
 - (1) the condition that was the basis for the transfer to inactive enrollment no longer exists;
 - (2) the ~~member~~ attorney is now able to practice law competently and without danger to the interests of the ~~member's~~ attorney's clients or to the public; and
 - (3) the ~~member~~ attorney understands that the ~~member~~ attorney will not be allowed to practice law until the Court approves the stipulation.
- (C) **Signing the Stipulation.** The ~~member~~ attorney, the ~~member's~~ attorney's counsel of record (if any), and the deputy trial counsel on behalf of the State Bar must sign the stipulation.

Rule 5.208 Hearing on Petition

- (A) **Requesting Hearing.** If the ~~member~~ attorney seeks a hearing on the petition, the petition must include a request for a hearing. Whether or not the ~~member~~ attorney has requested a hearing, the deputy trial counsel may request a hearing; such request must be filed within 20 days after service of the petition.
- (B) **Order for Hearing.** The Court may order a hearing if it will materially contribute to the Court's determining whether a basis for the ~~member's~~ attorney's involuntary inactive enrollment still exists. The hearing will be held as soon as practicable.
- (C) **Notice.** The Clerk must serve notice of the hearing on the ~~member~~ attorney, the ~~member's~~ attorney's counsel (if any), and the deputy trial counsel at least

20 days before the hearing date, unless a continuance is granted for good cause shown.

Rule 5.209 Decision

The decision is effective when served unless otherwise ordered by the Court.

- (A) **Petition Granted.** If the Court finds by clear and convincing evidence that there is no longer a basis for the ~~member's~~ attorney's involuntary inactive enrollment, it may grant the petition and terminate the order of inactive enrollment.
- (B) **Interim Remedies.** If the Court finds by clear and convincing evidence that the change in the ~~member's~~ attorney's condition makes interim remedies sufficient to protect the ~~member's~~ attorney's clients and the public, it may impose interim remedies in lieu of inactive enrollment.
- (C) **Petition Denied.** If the Court finds inadequate change in the ~~member's~~ attorney's condition, it may deny the petition.

Rule 5.210 Transfer to Active Status

~~A member's~~ An attorney's transfer to active enrollment does not revoke any suspension imposed on the ~~member~~ attorney for any reason, or override any other independent restriction that may exist regarding the ~~member's~~ attorney's right to practice law.

Rule 5.211 Review

An order granting or denying a petition under these rules is reviewable under rule 5.150.

Rule 5.212 Inapplicable Rules

The following rules do not apply in a proceeding for transfer to active enrollment:

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

Chapter 5. Bus. & Prof. Code § 6007(c)(1): Failure to Maintain Address of Record

Rule 5.215 Nature of Proceeding

These rules apply to proceedings under Business and Professions Code § 6007(c)(1) authorizing the involuntary transfer of ~~a member~~ an attorney to inactive enrollment upon

a finding that the ~~member~~ attorney has not complied with Business and Professions Code § 6002.1 and cannot be located after reasonable investigation.

Rule 5.216 Issues

The issues in a proceeding under these rules are limited to whether the ~~member~~ attorney has complied with § 6002.1 and whether the ~~member~~ attorney can be located after reasonable investigation.

Rule 5.217 Application for Involuntary Inactive Enrollment

To begin a proceeding, the Office of the Chief Trial Counsel will file with the Clerk a verified application with supporting documents. The application must state with particularity facts showing that the ~~member~~ attorney has failed to comply with Business and Professions Code § 6002.1 and that the ~~member~~ attorney cannot be located after reasonable investigation. The application must be served under rule 5.25.

Rule 5.218 Hearing

A hearing is not required. The Court may hold a hearing on an expedited basis if the Office of the Chief Trial Counsel asks for a hearing or if the Court determines that a hearing will materially contribute to its consideration of the application.

Rule 5.219 Order to Transfer to Inactive Enrollment

If the Court finds that a ~~member~~ an attorney has failed to comply with Business and Professions Code § 6002.1 and cannot be located after reasonable investigation, it will order that the ~~member~~ attorney be transferred to involuntary inactive enrollment, effective immediately, unless otherwise ordered by the Court.

Rule 5.220 Review

An order denying an application under these rules is reviewable under rule 5.150.

Rule 5.221 Inapplicable Rules

The following rules do not apply in a proceeding under Business and Professions Code § 6007(c)(1):

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.65-5.71 (discovery); rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

Chapter 6. Bus. & Prof. Code § 6007(c)(1)-(3): Threat of Harm

Rule 5.225 Nature of Proceeding

These rules apply to proceedings under Business and Professions Code § 6007(c)(1) through § 6007(c)(3), which authorize the transfer of ~~a member~~ an attorney to involuntary inactive enrollment upon a finding that the ~~member's~~ attorney's conduct poses a substantial threat of harm to the ~~member's~~ attorney's clients or to the public. The proceeding must be expedited.

Rule 5.226 Application for Involuntary Enrollment

- (A) **Beginning Proceeding.** The Office of the Chief Trial Counsel must file with the Clerk a verified application with supporting documents. A request for a hearing must be stated in the application or it will be waived.
- (B) **Service.** The application must be served on the ~~member~~ attorney under rule 5.25.
- (C) **Stating Facts.** The application must state with particularity facts showing that the ~~member's~~ attorney's conduct poses a substantial threat of harm to the ~~member's~~ attorney's clients or to the public as required under Business and Professions Code §6007(c)(2)(A)-(C). It must be supported by declarations, transcripts, or requests for judicial notice.
- (D) **Alleging Violations.** If the application relates to pending or concurrently filed notices of disciplinary charges, then those must be identified by case number and copies of all notices must be attached to the application. If there is no pending disciplinary proceeding, the application itself must:
 - (1) cite the statutes, rules, or court orders allegedly violated, or that warrant involuntary inactive enrollment, and
 - (2) state the particular acts or omissions that constitute the alleged violation or violations, or that form the basis for warranting involuntary inactive enrollment.
- (E) **Notice to Member Attorney; Member's Attorney's Response and Request for Hearing.** The application must contain a notice to the ~~member~~ attorney, in prominent type, stating that the ~~member~~ attorney must file a verified response to the application and request a hearing as provided in rule 5.227; otherwise, the right to a hearing will be waived.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.227 ~~Member's~~ Attorney's Response to Application and Right to Hearing

The ~~member~~ attorney who is the subject of an application or order to show cause has 10 days from service of the order or the application to file with the Clerk a verified

response and request for a hearing. If the ~~member~~ attorney does not file a verified response and request a hearing, the ~~member~~ attorney waives the right to a hearing.

Rule 5.228 Stipulation to Involuntary Inactive Enrollment

The ~~member~~ attorney may stipulate to a transfer to involuntary inactive enrollment. The stipulation must include the factual basis for the involuntary inactive enrollment. If the Court approves the stipulation, it will order the ~~member's~~ attorney's transfer. The stipulation becomes effective when the order is served, unless the Court's order specifies a different effective date.

Rule 5.229 Expedited Hearing

The Court will conduct the hearing if timely requested by any party or if the Court determines that the hearing will materially contribute to its consideration of the application. The Clerk will set the hearing date and serve notice on the parties. The hearing will be expedited and completed as soon as practicable and may not be interrupted or continued except for good cause.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.230 Evidence

- (A) Types of Evidence.** At a hearing, evidence will be received by declaration, request for judicial notice, and transcripts. Declarations on information and belief are hearsay and generally insufficient as evidence. Conclusions of law in a declaration are not evidence. No testimony or cross-examination will be allowed, unless a party shows good cause.
- (B) Submitting Evidence.** Evidence to be offered at the hearing should be attached to and served with either the State Bar's application under rule 5.226 or the ~~member's~~ attorney's response under rule 5.227. Any additional proposed evidence must be filed with the Court and served on the opposing party at least three court days before the hearing. If the proposed evidence is filed within five court days before the hearing, the filing party must ensure that the other party actually receives copies at least two calendar days before the hearing.
- (C) Oral Testimony.** If a party wants to offer oral testimony (except in rebuttal to oral testimony presented by the other party), then, at least three court days before the hearing, the party must file and serve a written statement containing the substance of the proposed testimony, the names and addresses of witnesses, and a reasonable time estimate for the testimony. If the statement is filed within five court days before the hearing, the filing party must ensure that the other party actually receives copies at least two calendar days before the hearing.

- (D) **Hearing; Admissibility of Evidence.** At a contested hearing, the hearing judge will rule on whether the declarations in support of the application are admissible as evidence, and will also rule on objections and motions to strike material in the declarations.
- (E) **No Hearing Held.** If no hearing is held, the Court will consider and weigh only the evidence in and attached to the application and the ~~member's~~ attorney's response.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.231 Decision; Denial Without Prejudice

- (A) **Time of Decision.** If no hearing is held, the Court will issue an order submitting the matter and must file its decision within 30 days after submission. If a hearing is held, the Court must file its decision within 30 days after the hearing ends.
- (B) **Findings of Fact.** The Court's decision must include findings of fact about whether:
 - (1) the ~~member~~ attorney was given notice of the proceeding under rule 5.226; and
 - (2) each factor required by Business and Professions Code § 6007(c)(2) has been established by clear and convincing evidence.
- (C) **Remedies Ordered.** The decision may order that the ~~member~~ attorney be enrolled as an inactive ~~member~~ attorney under § 6007(c)(2), or may order that interim remedies be imposed under § 6007(h).
- (D) **Effective Date.** The decision takes effect on the earlier of personal service or three days after service by mail, unless otherwise ordered by the Court.
- (E) **Application Denied.** If an application is denied without prejudice, a new application based on additional facts may be filed and may incorporate the facts alleged in prior applications.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.232 Review

A decision in a proceeding under Business and Professions Code § 6007(c)(2) is reviewable for errors of law or abuse of discretion under rule 5.150.

Rule 5.233 Inapplicable Rules

The following rules do not apply in proceedings under Business and Professions Code § 6007(c)(2):

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.60-5.64 (subpoenas); rules 5.65-5.71 (discovery); rules 5.80-5.100 (default; obligation to appear at trial); and rules 5.151-5.157 (review).

Rule 5.234 Beginning Disciplinary Proceeding after Involuntary Inactive Enrollment Granted

- (A) **Applicability of Rules.** These rules apply to disciplinary proceedings involving the matters on which a Business and Professions Code § 6007(c)(2) application was based. These proceedings will be expedited.
- (B) **Service.** The notice of disciplinary charges, the response to the charges, the Court's decision, any motion for reconsideration and any response to it, any request for review, the parties' briefs on review, and the decision of the Review Department must be served by personal delivery or by overnight mail. If served by overnight mail, the prescribed period for notice will be extended by one day for any right or duty to do an act, or to respond after the document is served.

Rule 5.235 Allegations in Notice of Disciplinary Charges

When an application for involuntary inactive enrollment under Business and Professions Code § 6007(c)(2) has been filed before the related disciplinary charges are filed, the notice of disciplinary charges must state which counts of the notice refer to the factual allegations in the application for inactive enrollment.

Rule 5.236 Expedited Disciplinary Proceedings

- (A) **Notice of Disciplinary Charges.** When the Court has issued an order of involuntary inactive enrollment, unless the Court determines that time limits have been waived by the ~~member~~ attorney, the notice of disciplinary charges must be filed within 45 days after the effective date of the involuntary inactive enrollment. After giving notice to the ~~member~~ attorney, the Office of the Chief Trial Counsel may move for up to 30 more days to file the notice of disciplinary charges. The Court may grant the motion on a showing of good cause.
- (B) **Formal Discovery.** Formal discovery will begin as soon as the notice of disciplinary charges is filed and must be completed as provided in rule 5.65.
- (C) **Hearing Decision.** The hearing judge's decision on the notice of disciplinary charges must be filed within six months of the effective date of the involuntary inactive enrollment.

- (D) **Decision on Review.** The Review Department decision must be filed within five months after the request for review is filed.

Rule 5.237 Undue Delay

- (A) **Motion for Transfer to Active Enrollment.** If any requirement in rule 5.236 is not satisfied, the Court must grant a motion for transfer to active enrollment unless the Court finds that the ~~member~~ attorney or the ~~member's~~ attorney's counsel caused the delay or that the delay was justified for good cause, such as the interest of public protection.
- (B) **Hearing.** Any party may request a hearing on the motion; if none is requested, the Court has the discretion to order a hearing.
- (C) **Decision on Motion.** If the Court denies the motion, it will state its reasons in writing. If the Court grants the motion, the Court's order will not relieve the ~~member~~ attorney of any suspension imposed on the ~~member~~ attorney for any reason, or of any other independent restriction that may exist regarding the ~~member's~~ attorney's right to practice law.

Rule 5.238 Review of Order on Motion for Transfer to Active Enrollment

An order granting or denying a motion for transfer to active enrollment under rule 5.237 is reviewable under rule 5.150.

Chapter 7. Bus. & Prof. Code § 6007(c)(2): Transfer from Inactive to Active Enrollment

Rule 5.240 Petition

- (A) **Eligibility.** ~~A member~~ An attorney who has been transferred to inactive enrollment under Business and Professions Code § 6007(c)(2) may petition for transfer to active enrollment, with or without interim remedies.
- (B) **Requirements.** The petition must be verified, state the facts alleged to warrant the relief requested, and contain any other information required by the order transferring the ~~member~~ attorney to inactive enrollment. The petition must be addressed to the Hearing Department, filed with the Clerk, and served under rule 5.25 on the Office of the Chief Trial Counsel.

Rule 5.241 Stipulations

The parties may stipulate to the ~~member's~~ attorney's transfer to active enrollment if it is shown that the ~~member's~~ attorney's conduct warrants the transfer. The stipulation must state sufficient facts to support the transfer; expert testimony is permitted. The Court, in its discretion, may reject the stipulation in the interests of justice.

Rule 5.242 Decision; Denial Without Prejudice

- (A) Time for Decision.** If no hearing is held, the Court must file its decision, including findings of fact, within 10 court days after the matter is submitted. If a hearing is held, the Court must file its decision, including findings of fact, within 10 court days after the hearing ends.
- (B) Contents of Decision; Effective Date.** The written decision must include findings of fact about whether clear and convincing evidence established that the circumstances warranting the original involuntary inactive enrollment no longer exist and a conclusion of law about whether transferring the ~~member~~ attorney to active enrollment will create a substantial threat of harm to the ~~member's~~ attorney's clients or the public. The decision takes effect on service, unless otherwise ordered by the Court.
- (C) Denial of Petition.** Denial is without prejudice. A new petition based on additional facts may be filed and may incorporate the facts alleged in prior petitions.

Rule 5.243 Limitations on Effect of Transfer

If the Court grants the petition or issues an order approving a stipulation, the Court's decision or order will not relieve the ~~member~~ attorney of any suspension imposed on the ~~member~~ attorney for any reason, or of any other independent restriction that may exist regarding the ~~member's~~ attorney's right to practice law.

Rule 5.244 Review

A decision in a proceeding under these rules is reviewable only for errors of law or abuse of discretion under rule 5.150.

Rule 5.245 Inapplicable Rules

The following rules do not apply in a proceeding for transfer to active enrollment:

- (A) General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) Specific.** Rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

**Chapter 8. Bus. & Prof. Code Section 6007(e):
Failure to File a Response in a Disciplinary Proceeding; Termination**

Rule 5.250 Conditions for Involuntary Inactive Enrollment

- (A) **Member's Attorney's Default.** If the ~~member~~ attorney defaults and the Court determines that the conditions in Business and Professions Code § 6007(e) have been met, then on entry of the ~~member's~~ attorney's default, the Court will order the ~~member's~~ attorney's transfer to involuntary inactive enrollment in a disciplinary proceeding.
- (B) **Service.** The Clerk will serve the order by first-class mail addressed to the ~~member~~ attorney at the address required to be maintained on State Bar records under Business and Professions Code § 6002.1. If the ~~member~~ attorney is exempt from § 6002.1, the ~~member~~ attorney may be served by first-class mail under rule 5.26.
- (C) **Effective Date.** The transfer to inactive enrollment takes effect on the earlier of personal service or three days after service by mail of the order, unless otherwise ordered by the Court.

Rule 5.251 Termination of Involuntary Inactive Enrollment

- (A) **Conditions.** The Court must terminate the ~~member's~~ attorney's inactive enrollment under Business and Professions Code § 6007(e) when the ~~member~~ attorney meets the conditions in § 6007(e)(2).
- (B) **Service of Termination Order.** The Clerk will serve the order by first-class mail addressed to the ~~member~~ attorney at the address required to be maintained on State Bar records under Business and Professions Code § 6002.1. If the ~~member~~ attorney is exempt from § 6002.1, the ~~member~~ attorney may be served by first-class mail under rule 5.26.
- (C) **Effective Date.** The termination of inactive enrollment takes effect on service of the order. But if a ~~member's~~ an attorney's involuntary inactive enrollment under § 6007(e) is still in effect when the final order on the merits in the underlying disciplinary proceeding takes effect, the involuntary inactive enrollment will terminate on the final order's effective date.
- (D) **No Relief from Other Discipline.** Termination of a ~~member's~~ an attorney's inactive enrollment under this rule will not relieve the ~~member~~ attorney of any suspension imposed on the ~~member~~ attorney for any reason, or of any other independent restriction that may exist regarding the ~~member's~~ attorney's right to practice law.

Rule 5.252 No Hearing Required

No hearing is required because ~~a member's~~ an attorney's inactive enrollment and any transfer to active enrollment are administrative matters.

Rule 5.253 Applicable Rules

Involuntary inactive enrollment under Business and Professions Code § 6007(e) is governed solely by rules 5.80-5.85, 5.250-5.252, and 5.150 (interlocutory review). The underlying disciplinary proceeding in which an order of inactive enrollment under § 6007(e) is filed is governed by all rules applicable to that proceeding.

Chapter 9. Bus. & Prof. Code § 6007(h): Interim Remedies

Rule 5.255 Interim Remedies as Alternative to Involuntary Inactive Enrollment

In a proceeding for involuntary inactive enrollment brought under Business and Professions Code § 6007(b)(3) or § 6007(c)(2), the Court may impose certain interim remedies.

- (A) **Motion for Interim Remedies.** Either party may move the Court to order interim remedies as alternative relief. The motion must state the nature of the interim remedies requested. The applicable rules for involuntary inactive enrollment proceedings govern.
- (B) **Stipulation for Interim Remedies.** The parties may stipulate to interim remedies instead of inactive enrollment, if the stipulation states the factual basis for interim remedies and specifies the remedies to be ordered. The Court must approve the stipulation.
- (C) **Order for Interim Remedies.** The Court may order interim remedies on the motion of any party or on its own motion.
- (D) **Denial of Motion.** When involuntary inactive enrollment is warranted, the Court will not order interim remedies.

Rule 5.256 Proceedings Seeking Interim Remedies Only

A proceeding to seek interim remedies may be brought under Business and Professions Code § 6007(h) without seeking the ~~member's~~ attorney's involuntary inactive enrollment. The proceeding is governed by these rules and is expedited.

Rule 5.257 Application for Interim Remedies

To start a proceeding seeking interim remedies without requesting involuntary inactive enrollment, the initiating party must file with the Clerk a verified application with supporting documents. The application must state with particularity the factual and legal basis for the relief sought, specify the nature of the interim remedies requested, and

state whether a hearing is requested. The application must be served on the opposing party under rule 5.25.

Rule 5.258 Application Based Solely on Allegations under Business and Professions Code § 6007(b)(3)

If an application seeking interim remedies is based solely on allegations under Business and Professions Code § 6007(b)(3), the following rules apply.

- (A) **Non-Public.** The proceeding will not be public unless otherwise ordered by the Court for good cause.
- (B) **Appointment of Counsel.** The Court may appoint counsel to represent the ~~member~~ attorney, if the Court deems it necessary to protect the ~~member's~~ attorney's rights. The appointed counsel will be compensated in the same manner and have the same authority as counsel appointed to represent a ~~member~~ an attorney in a proceeding under § 6007(b)(3). By itself, the ~~member's~~ attorney's failure or inability to assist counsel is not a reason to abate the proceeding, or a basis for a continuance, or grounds for a motion by counsel to be relieved as attorney of record in a § 6007(h) proceeding.
- (C) **Examination.** For good cause the Court may order a physical or mental examination of the ~~member~~ attorney under Business and Professions Code § 6053 and rule 5.68 of these rules. If the ~~member~~ attorney fails to obey the order, that failure may be considered as evidence in determining whether interim remedies are warranted.

Rule 5.259 Response

The opposing party must file and serve a verified response within 10 days after the application is served. The response must state whether a hearing is requested. If no response is filed, the opposing party waives a hearing and, unless otherwise ordered by the Court for good cause, is precluded from appearing in the proceeding.

Rule 5.260 Stipulation

The parties may stipulate to interim remedies, but the stipulation must state the factual basis for interim remedies and must specify the remedies to be ordered. The Court and the ~~member's~~ attorney's counsel (if any) must approve the stipulation. The stipulated interim remedies take effect on the earlier of personal service or three days after service by mail of the order approving the stipulation, unless otherwise provided in the stipulation.

Rule 5.261 Hearing

If either party requested a hearing or if the Court determines that a hearing will materially contribute to its consideration of the application, a hearing will be set on an expedited basis and conducted under rule 5.230. But if the application seeking interim remedies is based solely on allegations under Business and Professions Code § 6007(b)(3), it will be conducted under rule 5.195.

Rule 5.262 Burden of Proof

The party seeking interim remedies has the burden to establish by clear and convincing evidence the requested remedies are necessary because the ~~member~~ attorney cannot practice law without a substantial threat of harm to the interests of the ~~member's~~ attorney's clients or the public, or that interim remedies are otherwise justified under the circumstances.

Rule 5.263 Decision

- (A) **Findings of Fact.** The Court's decision must include findings of fact showing the basis for ordering interim remedies or for denying the application. If no hearing is held, the Court must file its decision within 10 court days after the response due date. If a hearing is held, the Court must file its decision within 10 court days after the hearing concludes.
- (B) **Effective Date.** The decision takes effect on the earlier of personal service or three days after service by mail, unless otherwise ordered by the Court.

Rule 5.264 Review

A decision in a proceeding seeking interim remedies is reviewable only for errors of law or abuse of discretion under rule 5.150.

Rule 5.265 Inapplicable Rules

The following rules do not apply in a proceeding seeking interim remedies:

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

Chapter 10. Change or Termination of Interim Remedies

Rule 5.270 Scope

These rules govern motions to modify or terminate interim remedies ordered under Business and Professions Code § 6007(h).

Rule 5.271 Filing and Service of Motion

A motion to modify or terminate interim remedies must state the nature of the relief requested, the factual and legal basis for it, and whether a hearing is requested. The party filing the motion must serve it under rule 5.25.

Rule 5.272 Response

The party served with a motion under these rules must file and serve a verified response within 10 days after the petition is served. The response must state whether a hearing is requested. If no response is filed, the opposing party waives a hearing and, unless otherwise ordered by the Court for good cause, is precluded from appearing in the proceeding.

Rule 5.273 Stipulation

The parties may stipulate to modifying or terminating interim remedies, but the stipulation must state the factual basis for any specific interim remedies to be ordered. The Court and the ~~member's~~ attorney's counsel (if any) must approve the stipulation. The stipulated interim remedies take effect 10 days after service of the order approving the stipulation, unless otherwise provided in the stipulation.

Rule 5.274 Hearing

If either party requests a hearing or if the Court determines that a hearing will materially contribute to its consideration of the motion, a hearing will be set on an expedited basis.

Rule 5.275 Burden of Proof

The party seeking to modify or terminate interim remedies has the burden to establish by clear and convincing evidence that the requested relief is justified under the circumstances.

Rule 5.276 Decision

- (A) Findings of Fact.** The Court's decision must include findings of fact showing the basis for the relief granted or for denying the requested relief. If no hearing is held, the Court must file its decision within 10 court days after the response is filed. If a hearing is held, the Court must file its decision within 10 court days after the hearing concludes.
- (B) Effective Date.** The decision takes effect on the earlier of personal service or three days after service by mail, unless otherwise ordered by the Court.

Rule 5.277 Review

A decision on a motion under these rules is reviewable only for error of law or abuse of discretion under rule 5.150.

Rule 5.278 Inapplicable Rules

The following rules do not apply in proceedings on a motion to modify or terminate interim remedies:

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

Division 5. Probation Proceedings

Chapter 1. Probation Modification and Early Termination Proceedings

Rule 5.300 Motions for Modification or Early Termination of Probation

- (A) **Timing of Motion.** If at least six months have passed since the effective date of the order imposing probation, either the ~~member~~ attorney or the Office of Probation may move to terminate probation early. A motion to modify probation may be made at any time.
- (B) **Considerations; Requirements.** The State Bar Court must balance the interests of the ~~member~~ attorney and the public and determine whether modifying or terminating probation serves the objectives of probation. A motion to modify or terminate probation early must state facts showing that the request is consistent with:
 - (1) protecting the public;
 - (2) the ~~member's~~ attorney's successful rehabilitation; and
 - (3) maintaining the integrity of the legal profession.
- (C) **Modification of Suspension.** Unless expressly authorized by the Supreme Court, the State Bar Court will not consider a motion or stipulation to modify an actual or stayed period of suspension, whether it's a condition of probation or not.
- (D) **Specific Relief.** The motion must clearly state the specific relief requested and be accompanied by one or more declarations.
- (E) **Response.** A response to the motion must be filed within 30 days after the motion is served.
- (F) **Hearing.**

- (1) A party may file and serve a written request for a hearing when filing the motion or within 10 days after serving the response. Failure to request a hearing is a waiver of hearing.
 - (2) The Court will hold a hearing if timely requested by either party and it determines that a hearing will materially contribute to the Court's consideration of the motion. The hearing will be set on an expedited basis.
- (G) **Service.** The party filing the motion must serve it under rule 5.25. Service on the State Bar under rule 5.25(E) must be made on the Office of Probation at 845 S. Figueroa Street, Los Angeles, CA 90017-2515.

Rule 5.301 Stipulation to Modification or Early Termination of Probation

The parties may stipulate to modifying the conditions of probation, as permitted by rule 9.10(c) of the California Rules of Court, or to terminating probation early. The stipulation must state specific facts demonstrating that the requested relief is appropriate and serves the objectives of probation. The Court must approve the stipulation and has the discretion to reject the stipulation in the interest of justice.

Rule 5.302 Burden of Proof; Discovery; Evidence

- (A) **Supporting Evidence.** Clear and convincing evidence is required to support a motion to modify or terminate probation early.
- (B) **Discovery.** The Court will allow discovery only if good cause is shown.
- (C) **Objections to Motion.** Written objections to the declarations offered in support of and in response to the motion must be filed and served by a party within 10 days after the response is filed. If no hearing is held, the Court will receive the declarations in evidence, subject to its rulings on any objections.
- (D) **Hearing.** If a hearing is held, the submitted declarations will be admitted in evidence, subject to appropriate objection, as the direct testimony of the respective declarants.
- (E) **Cross-Examination.** If an opposing party is served a declaration, and files and serves within five days after service a request to cross-examine the declarant, the party that filed the declaration must produce the declarant for cross-examination at the hearing.

Rule 5.303 Ruling on Motion

The Court will issue a written order stating its ruling on the motion and its reasons.

Rule 5.304 Form of Ruling

- (A) **Order.** The Court's ruling will be an order when:

- (1) granting a motion to correct, modify, or terminate early a probation ordered by the State Bar Court as a condition of reprobation;
 - (2) approving a stipulation or granting a motion to correct or modify probation terms for which the State Bar Court has delegated authority under rule 9.10(c) of the California Rules of Court;
 - (3) rejecting any stipulation; or
 - (4) denying any motion.
- (B) Recommendation.** The Court's ruling will be a recommendation when:
- (1) granting a motion to terminate early a probation ordered by the Supreme Court; or
 - (2) granting a motion to modify probation terms for which the State Bar Court does not have delegated authority under rule 9.10(c) of the California Rules of Court.

Rule 5.305 Review

A ruling by a hearing judge on a motion under these rules is reviewable only under rule 5.150.

Rule 5.306 Inapplicable Rules

The following rules do not apply in proceedings on a motion to modify or terminate probation early:

- (A) General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) Specific.** Rules 5.80-5.100 (default; obligation to appear at trial); rules 5.105-5.108 (admission of certain evidence); and rules 5.151-5.157 (review).

Chapter 2. Probation Revocation Proceedings

Rule 5.310 Probation Revocation Proceedings

If the Office of Probation has reasonable cause to believe that ~~a member~~ an attorney has violated a condition of probation, it may charge the probation violation in a probation revocation proceeding governed by these rules. Alternatively, the Office of the Chief Trial Counsel may charge the probation violation in an original disciplinary proceeding, based on the ~~member's~~ attorney's violation of Business and Professions Code § 6068(k), governed by the rules for disciplinary proceedings generally.

Rule 5.311 Burden of Proof in Probation Revocation Proceedings; Expedited Proceeding

A preponderance of the evidence is required in probation revocation proceedings, and the proceedings will be expedited.

Rule 5.312 Discipline Recommended in Probation Revocation Proceedings

The Court may recommend imposing an actual suspension equal to or less than the period of stayed suspension. It may also recommend staying all or part of the actual suspension and imposing a new period of probation, which may be of a different duration or under different conditions than the original probation or both.

Rule 5.313 Consolidation of Probation Revocation Proceedings

A probation revocation proceeding may be consolidated with another probation revocation proceeding alleging a separate violation or violations of the same Supreme Court order. Otherwise, it may not be consolidated for decision with any other proceeding.

Rule 5.314 Conduct of Probation Revocation Proceedings

Probation revocation proceedings will be conducted as follows:

- (A) **Motion.** The proceeding begins by filing a motion to revoke probation, accompanied by one or more declarations stating all the facts relied on in support of the motion. If a hearing is not requested in the motion, a hearing is waived. The motion and all supporting pleadings and evidence, including declarations and a copy of an approved response form, must be served on the ~~member~~ attorney under rule 5.25.
- (B) **Response.** The response, including any opposition, must be filed and served within 20 days of the service of the motion. All facts relied on in the response must be stated in one or more accompanying declarations. If a hearing is not requested in the response, the right to request a hearing is waived, regardless of a request for hearing in the motion. The response must state whether the ~~member~~ attorney wants to cross-examine the declarants at the hearing.
- (C) **Admissions.** If no response is filed, the factual allegations contained in the motion and supporting documents will be treated as admissions.
- (D) **Discovery.** The Court will allow discovery only if good cause is shown.
- (E) **Hearing.** The Court will hold a hearing if timely requested by any party or if the Court determines that a hearing will materially contribute to its consideration of the motion.
- (F) **Declarations in Support of Motion.** Subject to appropriate objection, the Court will admit in evidence the declarations submitted in support of the motion as the direct testimony of the respective declarants. If the ~~member~~ attorney filed a timely response to the motion and expressly requested a

hearing and the opportunity to cross-examine the declarants, counsel for the Office of Probation will produce the declarants at the hearing.

- (G) **Declarations in Response.** If the ~~member~~ attorney filed declarations in response to the motion, then, subject to appropriate objection, the Court will admit in evidence the declarations as the direct testimony of the respective declarants only if:
- (1) the ~~member~~ attorney produces the declarant at the hearing for cross-examination, or
 - (2) counsel for the Office of Probation waives the right to cross-examine the declarant.
- (H) **No Hearing.** If no hearing is held, the Court will receive in evidence declarations and exhibits submitted in support of and in opposition to the motion. The admissibility of this evidence is subject to the Court's ruling on any appropriate objections asserted by the ~~member~~ attorney in the response to the motion or by the Office of Probation in a writing filed and served within five court days after the response is served.
- (I) **Order.** The Court will issue a written order stating its reasons for the recommended action.

Rule 5.315 Involuntary Inactive Enrollment in Probation Matters

In a probation revocation proceeding, or in an original disciplinary proceeding for violating Business and Professions Code § 6068(k), if the Court finds that each element of Business and Professions Code § 6007(d) has occurred, the Court may order the ~~member~~ attorney transferred to involuntary inactive enrollment. The order takes effect three days after service, unless otherwise ordered by the judge. The involuntary inactive enrollment terminates when the conditions in § 6007(d)(2) occur.

Rule 5.316 Review

A ruling on a motion to revoke probation is reviewable on an expedited basis under rule 5.151.

Rule 5.317 Applicable Rules

- (A) **Inapplicable.** The following rules do not apply in probation revocation proceedings:
- (1) rules that by their terms apply only to other specific proceedings, and
 - (2) rule 5.41 (notice of disciplinary charges); rule 5.43 (response to notice of disciplinary charges); rules 5.80-5.86 (default); and rule 5.103 (State Bar's burden of proof).
- (B) **Conditionally Applicable.** The following rules apply in probation revocation proceedings in certain circumstances:

- (1) rule 5.65 (discovery) only if and to the extent that the Court permits discovery;
- (2) rule 5.100 (obligation to appear at trial) only if a hearing is held; and
- (3) rule 5.104 (rules of evidence) subject to the provisions of rule 5.314.

Division 6. Special Proceedings

Chapter 1. Rule 9.20 Proceedings

Rule 5.330 Nature of Proceeding

A rule 9.20 proceeding is one in which the ~~member~~ attorney is charged with failing to comply with rule 9.20 of the California Rules of Court as ordered by the Supreme Court. These rules apply to rule 9.20 proceedings.

Rule 5.331 Definitions

- (A) **Rule 9.20.** As used in these rules, “rule 9.20” refers to rule 9.20 of the California Rules of Court, and “rule 9.20 order” means an order requiring a ~~member~~ an attorney to comply with rule 9.20 of the California Rules of Court.
- (B) **“Declaration of Compliance” Defined.** A declaration signed by a ~~member~~ an attorney to comply or attempt to comply with a rule 9.20 order.

Rule 5.332 Filing and Service of Declarations of Compliance

- (A) **Proof of Service.** All declarations of compliance must be accompanied by proof of service on the Office of Probation.
- (B) **Mandatory Filing.** The Clerk of the State Bar Court must file all declarations of compliance, regardless of their form or the date submitted.
- (C) **No Proof of Service.** If the Clerk of the State Bar Court receives a declaration that is not accompanied by proof of service on the Office of Probation, the Clerk will file the declaration and serve it on the Office of Probation.

Rule 5.333 Time for Filing Proceeding Based on Untimely or Formally Defective Declaration

- (A) **Untimely or Defective Filing.** Any notice of disciplinary charges alleging that a declaration of compliance was untimely filed or was defective in form must be filed within 90 days after the declaration is served on the Office of Probation, unless the Court permits a later filing for good cause shown.

- (B) **Time Limit Inapplicable.** This time limit does not apply to a notice of disciplinary charges alleging a substantive defect in a declaration of compliance or alleging failure to file any declaration of compliance.
- (C) **Defects in Substance.** For purposes of this rule, if a declaration of compliance fails to state that the ~~member~~ attorney fully complied with the requirements of rule 9.20(a), the failure is a defect in substance and not a defect in form covered by this rule.

Rule 5.334 Notice of Disciplinary Charges; Initial Pleading

After ~~a member~~ an attorney allegedly fails to comply with a rule 9.20 order, the Office of the Chief Trial Counsel may file and serve a notice of disciplinary charges under rule 9.20. A copy of the order must be attached as an exhibit to the notice, which must comply with rule 5.41(B). The notice is also the initial pleading in a rule 9.20 proceeding.

Rule 5.335 Response to Notice of Disciplinary Charges

The ~~member~~ attorney must file and serve a verified response to the notice of disciplinary charges as provided in rule 5.43.

Rule 5.336 Record

The State Bar Court record includes all court orders and documents on file with the Clerk of the State Bar Court in the proceeding. The record must contain the rule 9.20 order and all documents submitted by the ~~member~~ attorney to comply or attempt to comply with or respond to the order, whether or not introduced in evidence.

Rule 5.337 Expedited Proceeding; Limited Discovery

- (A) **Expedition.** A proceeding charging a failure to comply with a rule 9.20 order will be expedited.
- (B) **Discovery By Chief Trial Counsel.** After the due date for filing the response, the Office of the Chief Trial Counsel may conduct discovery without leave of court only for the following limited issues:
 - (1) For all matters that were pending when the rule 9.20 order was filed, counsel may discover:
 - (a) the names, addresses and telephone numbers of clients;
 - (b) the case numbers and names of any litigation filed in a court, and the names of the courts in which pending litigation was filed; and
 - (c) the names, addresses and telephone numbers of opposing counsel in pending litigation; and
 - (2) The documents used to provide notice, as required by rule 9.20, to clients, courts, and opposing counsel.

- (C) **Other Discovery.** Neither party may conduct any other discovery unless the Court allows it for good cause shown.
- (D) **Applicable Rules.** Unless specific to another proceeding by their terms, all other rules apply.

Chapter 2. Conviction Proceedings

Rule 5.340 Nature of Proceedings

These rules apply to proceedings that result from ~~a member's~~ an attorney's criminal conviction and are held under Business and Professions Code §§ 6101 and 6102, California Rules of Court, rule 9.10, and these Rules of Procedure of the State Bar.

Rule 5.341 Beginning Proceedings

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. If the conviction is not final as defined in California Rules of Court, rule 9.10(a), but becomes final later, the Office of the Chief Trial Counsel must file a supplemental record of conviction containing sufficient proof that the conviction is final. Any record of conviction filed must be served on the ~~member~~ attorney under rule 5.25.

Rule 5.342 Interim Suspension

- (A) **Review Department Examination.** The Review Department will examine the record of conviction. If any ground for suspension set forth in Business and Professions Code § 6102(a) is present, the Review Department may interimly suspend the ~~member~~ attorney until a further order of the Review Department or until final disposition of the conviction proceeding.
- (B) **Filing and Responding to Briefs.** Within 10 days after the initial record of conviction is served, either party may file a brief addressing whether grounds for interim suspension under § 6102(a) are present. The brief may include evidence from the record of the proceedings resulting in the conviction, including a transcript of any testimony. The opposing party has 10 days after the brief is served to file and serve a written response.
- (C) **Misdemeanor Conviction and Moral Turpitude.** In cases involving misdemeanor convictions, the Review Department, on its own or on motion of any party, may direct the Hearing Department to conduct a hearing for the sole purpose of resolving factual issues as to whether there is probable cause to believe that the conviction involved moral turpitude, and if found, to make a recommendation whether interim suspension should be imposed. Proceedings pursuant to this subsection will be conducted as follows:
 - (1) the Court may allow discovery only if good cause is shown;

- (2) within 30 days after the referral order, each party must file and serve:
 - (a) a list of all witnesses to be called at the hearing, except for impeachment or rebuttal; and
 - (b) copies of all exhibits to be offered.
- (3) a hearing will be held within 45 days after the referral order is served. The court will file and submit its report to the Review Department within 15 days after the hearing concludes.
- (4) rules 5.80-5.86 do not apply to these proceedings. If ~~a member~~ an attorney fails to appear at the hearing in person or by counsel, the hearing will proceed unless the court continues it for good cause.
- (5) a recommendation for interim suspension is reviewable under rule 5.150.

(D) Motion to Vacate, or to Delay or Stay Order for Interim Suspension. At any time while a conviction proceeding is pending in the State Bar Court, a ~~member~~ an attorney may file a motion in the Review Department to vacate, delay the effective date of, or temporarily stay the effect of an order of interim suspension. Rule 5.162 of these rules governs the motions.

Rule 5.343 Summary Disbarment

The Office of the Chief Trial Counsel may file a motion for the ~~member's~~ attorney's summary disbarment under Business and Professions Code § 6102(c). The motion must be filed concurrently with the record of conviction showing that the conviction is final. The ~~member's~~ attorney's written response must be filed within 10 days after the motion is served.

Rule 5.344 Final Convictions

- (A) Convictions Not Subject to Summary Disbarment.** After a conviction that is not subject to summary disbarment is final, the Review Department will refer the case to the Hearing Department to hear the case and decide the issues in the order of referral.
- (B) Waiver of Finality.** At any time before a conviction becomes final, ~~a member~~ an attorney may file a notice waiving finality and asking the Review Department to refer the case to the Hearing Department to hear and decide the case.

Rule 5.345 Hearing Department Proceedings

- (A) Referred Proceeding; Notice.** When a conviction proceeding is referred under rule 5.344, the Clerk will file and serve under rule 5.25 a notice of hearing on conviction. A copy of the order of referral must be attached to the notice as an exhibit. The notice must include the following language in capital letters:

“IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE; AND
- (4) YOU WILL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. (SEE RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA, RULE 5.80 ET SEQ.).

UNDER THE RULES OF PROCEDURE OF THE STATE BAR, YOU MUST FILE YOUR WRITTEN RESPONSE TO THIS NOTICE WITHIN 20 DAYS AFTER THIS NOTICE IS SERVED.”

- (B) **Response to Notice.** The ~~member~~ attorney must file and serve a response to the notice within 20 days after it is served, unless the Court grants an extension. The response must state the ~~member's~~ attorney's position on the issues stated in the order of referral and must contain an address for service on the ~~member~~ attorney.
- (C) **State Bar Court Record.** The State Bar Court record includes all court orders and documents on file with the Clerk of the State Bar Court in the proceeding, whether or not introduced in evidence. The evidence may include that permitted by Business and Professions Code § 6102(g).

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.346 Defaults

- (A) **Procedure.** If ~~a member~~ an attorney does not file a response to the notice of hearing on conviction or fails to appear at trial, the default procedures in rules 5.80-5.86 apply as modified by this rule.
- (B) **Definitions.** References in the default rules to “notice of disciplinary charges” will be treated as references to “notice of hearing on conviction.” References to factual allegations deemed admitted will be treated as references to the factual allegations set forth in the Office of the Chief Trial Counsel’s statement of facts and circumstances surrounding the conviction filed under section (C) of this rule. The wording of the notices required by the default rules will be modified accordingly.

- (C) **Statement of Facts and Circumstances.** The Office of the Chief Trial Counsel must recite the facts and circumstances surrounding the conviction that it contends warrant the imposition of discipline and it has clear and convincing evidence to prove as follows:
- (1) When the default is based on a failure to file a timely response, the statement must be included in the motion for entry of default under rule 5.80.
 - (2) When the default is based on a failure to appear at trial, the statement must be filed and served on the ~~member~~ attorney under rule 5.25 no later than five days after the default order is served. The statement must include the following language in prominent type: “Because you failed to appear at trial, the Court has entered your default and will deem the following statement of facts deemed admitted.”
- (D) Upon entry of the ~~member’s~~ attorney’s default under rule 5.80, or 10 days after service of the Office of the Chief Trial Counsel’s statement of facts and circumstances surrounding the conviction under subsection (C)(2) of this rule, the factual allegations in the statement will be treated as admitted by the ~~member~~ attorney, unless the Court orders otherwise based on contrary evidence. No further proof will be required to establish the truth of those facts.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.347 Applicable Rules

All rules of procedure apply except the following:

- (A) **General.** Rules that by their terms apply only to other specific proceedings do not apply in conviction proceedings; and
- (B) **Conditional.** Rules 5.80-5.86 (default) apply as modified by these conviction proceedings rules.

Eff. July 1, 2014.

Chapter 3. Proceedings Based on Professional Misconduct in Another Jurisdiction

Rule 5.350 Scope and Nature of Proceeding

These rules apply to proceedings under Business and Professions Code § 6049.1(b). A proceeding under these rules will be expedited.

Rule 5.351 How Commenced; Notice of Disciplinary Charges; Response

- (A) **Beginning Proceeding.** A proceeding begins when a notice of disciplinary charges is filed and served on the ~~member~~ attorney.
- (B) **Notice.** A notice of disciplinary charges issued under these rules may state that its only basis is the findings and final order of the other jurisdiction that imposed discipline on the ~~member~~ attorney. The notice must give sufficient detail to permit identification of the foreign disciplinary proceeding. The notice of disciplinary charges must also cite the California statutes or rules allegedly violated or that warrant the proposed action, and designate the specific finding(s) in the foreign proceeding supporting each allegation. The notice must have attachments:
- (1) a certified copy of the foreign jurisdiction's findings and final order; and
 - (2) a copy of the statutes, rules, or court orders of the foreign jurisdiction found to have been violated by the ~~member~~ attorney.
- (C) **Response.** Within 20 days after the notice of disciplinary charges is served, the ~~member~~ attorney must file with the Clerk and serve on the Office of the Chief Trial Counsel a response limited to the issues set forth in Business and Professions Code § 6049.1(b)(1)–(3).

Eff. January 1, 2011; Revised January 1, 2019.

Rule 5.352 No Formal Discovery Except for Good Cause Shown

The Court may allow formal discovery on a showing of good cause and then only on the terms and conditions ordered.

Rule 5.353 Record

A certified copy of any portion of the record of another jurisdiction's disciplinary proceedings, conducted as specified in Business and Professions Code § 6049.1(a), is admissible in evidence.

Rule 5.354 Applicable Rules

- (A) **Inapplicable.** Rules that by their terms apply only to other specific proceedings do not apply in proceedings under Business and Professions Code § 6049.1(b).
- (B) **Conditionally Applicable.** The following rules apply only in certain circumstances:
- (1) rules 5.41(notice of disciplinary charges) and 5.43 (response to notice of disciplinary charges) apply subject to the provisions of rule 5.351; and
 - (2) rules 5.65-5.71 (discovery) apply only if and to the extent that the Court permits discovery.
- (C) **Other.** All other rules apply.

Chapter 4. Fee Arbitration Award Enforcement Proceedings

Rule 5.360 Nature of Proceeding; Definitions

- (A) **Scope.** These rules apply to proceedings to enforce fee arbitration awards under Business and Professions Code § 6203(d).
- (B) **Supplemental Definitions.** For purposes of rules 5.360-5.371, the following definitions supplement those of rule 5.4:
- (1) “Arbitration award” means an award made in a fee arbitration under § 6203 in which ~~a member~~ an attorney was ordered to pay a refund to a client. The award is binding or has become binding either by operation of law after confirmation under § 6203(c) or by a judgment in a post-arbitration trial under Business and Professions Code § 6204.
 - (2) “Award debtor” means ~~a member~~ an attorney who must pay a refund to a client under an arbitration award.
 - (3) “Client” means a client or former client of ~~a member~~ an attorney to whom the ~~member~~ attorney must pay a refund under an arbitration award.
 - (4) “Inactive enrollment motion” means a motion to place an award debtor on involuntary inactive enrollment under § 6203(d).
 - (5) “Presiding Arbitrator,” or his or her designee, means the person responsible for supervising arbitrators hearing State Bar mandatory fee arbitrations under Business and Professions Code §§ 6200 et seq.

Rule 5.361 Initial Pleading; Service

- (A) **Beginning Proceeding.** A proceeding under this chapter begins when the Presiding Arbitrator files an inactive enrollment motion. The motion must be accompanied by a certified copy of the arbitration award and by declarations and exhibits necessary to establish the statutory requirements for involuntary inactive enrollment under Business and Professions Code § 6203(d). The motion must contain the following language in bold-face type:
- “NOTICE: If you do not file a timely response to this motion and request a hearing, you will waive your right to a hearing regarding your involuntary inactive enrollment.”**
- (B) **Service of Motion.** The Presiding Arbitrator must serve the inactive enrollment motion and supporting documents on the award debtor under rule 5.25.
- (C) **Service of Later Pleadings.** Later pleadings must be served on the award debtor under rule 5.26. The award debtor must serve the Presiding Arbitrator under rule 5.26 at the address shown on the inactive enrollment motion.

Rule 5.362 Response; Failure to File Response; Amending or Supplementing Initial Pleading

- (A) Debtor's Response to Motion.** The award debtor must file and serve a response to the inactive enrollment motion within 10 days after the inactive enrollment motion is served. The response must be supported by declarations and exhibits, if any, setting forth the factual basis for the award debtor's contentions about the motion.
- (B) No Response.** If the award debtor does not respond to the inactive enrollment motion, and if it appears to the Court from the motion and supporting documents that the statutory requirements for involuntary inactive enrollment are satisfied, the Court must order the award debtor to be placed on involuntary inactive enrollment. Unless otherwise ordered, the order takes effect five days after it is served.
- (C) Amending or Supplementing Motion.** If the award debtor files a response or if the Court denies the motion despite no response, the Presiding Arbitrator may file an amendment or supplement to the inactive enrollment motion within five court days after the response or the Court's order denying the motion is served.

Rule 5.363 Withdrawal of Motion

The Presiding Arbitrator may withdraw the inactive enrollment motion if the award debtor files a response to the inactive enrollment motion stating that the arbitration award has been paid in full, or that the award debtor is willing to agree to and comply with a payment plan satisfactory to the client or the Presiding Arbitrator.

Rule 5.364 Request for Hearing; Waiver of Hearing

If the award debtor files a timely response to the inactive enrollment motion and requests a hearing, the Court will set a hearing and give at least 20 days' notice. If the award debtor does not file a timely response and request a hearing, the award debtor waives the right to a hearing.

Rule 5.365 Burden of Proof

In proceedings on an inactive enrollment motion under these rules:

- (A) Presiding Arbitrator.** The Presiding Arbitrator has the burden to show by clear and convincing evidence that either:

 - (1) the award debtor has failed to comply with the arbitration award and has not proposed a payment plan acceptable to the client or the State Bar, or
 - (2) the award debtor agreed to a payment plan and has failed to make one or more payments required by the payment plan.

- (B) **Award Debtor.** The award debtor has the burden to show by clear and convincing evidence that he or she:
- (1) is not personally responsible for making or ensuring payment of the arbitration award;
 - (2) is unable to pay the arbitration award or the payments due under a previously agreed payment plan; or
 - (3) has proposed, and agrees to comply with, a payment plan that the State Bar unreasonably rejected as unsatisfactory.

Rule 5.366 Discovery

For good cause, the Court may permit limited discovery. Otherwise, there is no discovery in a proceeding under these rules.

Rule 5.367 Hearing Procedure; Evidence

- (A) **Issues.** In a hearing, the issues are limited to whether the award debtor:
- (1) has failed to comply with the arbitration award or with any previously agreed payment plan;
 - (2) has proposed a payment plan acceptable to the client or the State Bar;
 - (3) has proposed a payment plan that the State Bar unreasonably rejected as unsatisfactory;
 - (4) is personally responsible for making or ensuring payment of the arbitration award; or
 - (5) is unable to pay the arbitration award or any payments due under a previously agreed payment plan.
- (B) **Declarations.** Subject to appropriate objection, the Court will admit in evidence the declarations submitted in support of and in response to the inactive enrollment motion as the direct testimony of the respective declarants.
- (C) **Cross-Examination.** In a pleading, an opposing party may ask that a declarant be produced for cross-examination at the hearing. If the request is filed and served at least 10 days before the hearing or, if the declaration was filed under rule 5.362, within three court days after the declaration was served, then the party that filed the declaration must produce the declarant as requested.

Rule 5.368 Ruling on Motion; Costs

- (A) **Contents of Order.** The Court will issue a written order on the inactive enrollment motion, stating its reasons for its decision and making findings on any disputed factual issues.
- (B) **Motion Granted.** If the order grants the motion, then:
- (1) unless otherwise ordered, the order takes effect five days after it is served, and

- (2) when the Presiding Arbitrator submits a bill of costs, the Court will award reasonable costs to the State Bar under Business and Professions Code § 6203(d)(3).
- (C) **Definition of Reasonable Costs.** For the purpose of this rule, reasonable costs include all expenses paid by the State Bar that would qualify as taxable costs recoverable in civil proceedings, plus the amount that the Discipline Committee from time to time determines to be the reasonable administrative costs to the State Bar and the Court of processing inactive enrollment motions under these rules. Relief from costs may be sought under rule 5.130.
- (D) **Unreasonably Rejected Payment Plan.** If the Court finds that the State Bar unreasonably rejected a payment plan proposed by the award debtor, the Court may deny the motion and order the award debtor to comply with a payment plan satisfactory to the Court.

Rule 5.369 Review

- (A) **Ruling on Motion.** A ruling by a hearing judge on an inactive enrollment motion under these rules is reviewable under rule 5.150.
- (B) **Stay of Order.** An order granting an inactive enrollment motion will not be stayed pending review unless ordered by the Court under rule 5.150.

Rule 5.370 Termination of Inactive Enrollment

- (A) **Eligibility.** When the award debtor has paid in full the arbitration award plus any costs and penalties assessed because of the award debtor's failure to comply, the award debtor may move to terminate an involuntary inactive enrollment ordered under these rules.
- (B) **Motion; Response.** The motion must be accompanied by one or more declarations and by proof of payment. It must be served on the Presiding Arbitrator, who has 10 court days after service to respond.
- (C) **Order.** When the Presiding Arbitrator files the response or the time to file the response expires, the Court will promptly issue an order on the motion. If the Court finds that the arbitration award and any costs and penalties have been paid, it will terminate any involuntary inactive enrollment ordered under this chapter.

Rule 5.371 Inapplicable Rules

The following rules do not apply in a proceeding on an inactive enrollment motion under these rules:

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings.

- (B) **Specific.** Rules 5.44(A), (C), and (D) (amended pleadings); 5.50 (abatement); rules 5.60-5.71 (subpoenas and discovery); rules 5.80-5.102 (default; obligation to appear at trial; pretrial; notice of trial); rules 5.105-5.108 (admission of certain evidence); rules 5.151-5.157 (review).

Eff. January 1, 2011. Revised July 1, 2014.

Chapter 5. Alternative Discipline Program

Rule 5.380 Purpose of Program; Authority

These rules apply to proceedings before the State Bar Court in which ~~a member~~ an attorney is identified as having a substance abuse or mental health issue and is seeking to participate in or has been accepted to participate in the State Bar Court's Alternative Discipline Program ("Program" or "ADP").

Rule 5.381 Eligibility to Apply for Participation in Program

- (A) **Before Proceeding Begins.** Before a proceeding in the State Bar Court begins, a judge assigned to conduct an Early Neutral Evaluation Conference under rule 5.30 may discuss the ~~member's~~ attorney's eligibility to participate in the Program. If formal charges are filed, the Early Neutral Evaluation judge may be the Program Judge.
- (B) **After Proceeding Begins.** At any time after a proceeding in the State Bar Court begins, at the request of either the ~~member~~ attorney or the Office of the Chief Trial Counsel or on the court's own motion, ~~a member~~ an attorney may be referred to a judge whom the Presiding Judge has designated a Program Judge to determine the ~~member's~~ attorney's eligibility to participate in the Program. A referral by the Court must be made at least 45 days before the first scheduled trial date in the proceeding.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.382 Acceptance for Participation in Program

- (A) **Conditions for Participation.** Except as limited by subsections (B) and (C), the Program Judge has the discretion to accept ~~a member~~ an attorney for participation in the Program. Participation is contingent on:
- (1) the ~~member's~~ attorney's acceptance into the State Bar's Lawyer Assistance Program;

- (2) the Court's approval of a stipulation of facts and conclusions of law signed by the parties;
 - (3) evidence that the ~~member's~~ attorney's substance abuse or mental health issue causally contributed to the misconduct; and
 - (4) any additional conditions that the Program Judge may impose.
- (B) Stipulation Not Submitted.** If the parties do not sign and submit a stipulation of facts and conclusions of law to the Program Judge for approval within 90 days after the date the ~~member~~ attorney was referred to the Program to determine eligibility, the Program Judge may return the proceeding for processing as a standard discipline proceeding.
- (C) Grounds for Ineligibility.** A ~~member~~ An attorney will not be accepted to participate in the Program if:
- (1) the stipulation of facts and conclusions of law, including aggravating factors, signed by the ~~member~~ attorney and the Office of the Chief Trial Counsel shows that the ~~member's~~ attorney's disbarment is warranted, despite mitigating circumstances;
 - (2) the ~~member~~ attorney has been convicted of a criminal offense that subjects him or her to summary disbarment under Business and Professions Code § 6102(c);
 - (3) the ~~member's~~ attorney's current misconduct involves acts of moral turpitude, dishonesty, or corruption that has resulted in significant harm to one or more clients or to the administration of justice;
 - (4) there is a finding, based on expert testimony, that:
 - (a) the ~~member~~ attorney will not substantially benefit from treatment for his or her substance abuse or mental health problem; or
 - (b) the substance abuse or mental health problem cannot be overcome or controlled to the extent that it is unlikely to cause further misconduct; or
 - (5) the ~~member~~ attorney has previously participated in the Program and has either successfully completed the Program or been terminated from the Program.
- (D) Effect of Nonacceptance.** Unless otherwise agreed by the parties, if the ~~member~~ attorney is not accepted into the Program or refuses to sign the written agreement of the terms and conditions for participating in the Program, then any stipulation of facts and conclusions of law signed by the parties in the pending disciplinary proceeding and entered into as a condition for participating in the Program will be rejected and will not be binding on either the ~~member~~ attorney or the Office of the Chief Trial Counsel.

Eff. January 1, 2011. Revised July 1, 2014.

Rule 5.383 Disqualification of Program Judge in Standard Proceeding

- (A) Standard Discipline Proceeding.** If the ~~member~~ attorney is not admitted into the Program and the proceeding is returned for processing as a standard

disciplinary proceeding, the Program Judge may not serve as the assigned judge in the proceeding.

- (B) **Exception to Disqualification.** The Program Judge may be assigned the standard disciplinary proceeding if:
- (1) the parties agree on the record; or
 - (2) the Program Judge has neither received a stipulation to the facts and conclusions of law signed by the parties nor received confidential evaluation, treatment, or nexus information about the ~~member~~ attorney.
- (C) **Definition of “Nexus.”** As used here, the term “nexus” means clear and convincing evidence that the substance abuse or mental health issue causally contributed to the ~~member’s~~ attorney’s misconduct.

Rule 5.384 Disposition; Deferral of Imposition

- (A) **Statement of Disposition.** If a ~~member~~ an attorney seeking to participate in the Program has stipulated to the facts and conclusions of law in the pending disciplinary proceeding and has agreed to or has fulfilled all other conditions for participating in the Program, the Program Judge will give the ~~member~~ attorney a written statement regarding:
- (1) the disposition that will be implemented or recommended to the Supreme Court if the ~~member~~ attorney successfully completes the Program; and
 - (2) the disposition that will be implemented or recommended to the Supreme Court if the ~~member~~ attorney does not complete the Program.
- (B) **Range of Dispositions.** If the ~~member~~ attorney successfully completes the Program, the disposition may be as low as dismissal of the charges or proceeding. If the ~~member~~ attorney does not complete the Program, it may be as high as disbarment. The extent and severity of the ~~member’s~~ attorney’s stipulated misconduct, including the degree of harm suffered by his or her clients, are factors in determining the disposition implemented or recommended.
- (C) **Victim’s Statement.** Any person who has been harmed by the stipulated conduct of the ~~member~~ attorney may submit a written statement setting forth the nature and extent of the harm caused by the ~~member’s~~ attorney’s conduct. The Program Judge must consider the victims’ written statements in determining the degree of harm suffered by the ~~member’s~~ attorney’s client(s) and in determining the appropriate dispositions to be implemented or recommended in the proceeding.
- (D) **Delay in Implementation and Recommendation.** If the ~~member~~ attorney is accepted to participate in the Program, the stipulation of facts and conclusions of law will be filed and public but the proposed disposition will not

be implemented or transmitted to the Supreme Court until the ~~member~~ attorney either successfully completes the Program or is terminated from the Program.

- (E) **Placement on Inactive Status.** Unless the Program Judge finds, in writing, that inactive enrollment is not necessary for the protection of the public or of ~~member's~~ attorney's clients, the Program Judge must immediately place the ~~member~~ attorney on inactive status if:
- (1) the ~~member~~ attorney is accepted to participate in the Program, and
 - (2) upon the ~~member's~~ attorney's successful completion of the Program, the disposition recommended to the Supreme Court will include an actual suspension of at least 90 days.

Rule 5.385 Term of Participation in Program

- (A) **Minimum Time.** To successfully complete the Program, a ~~member~~ an attorney must participate in the Program for 36 months from the date of acceptance to the Program. But if the ~~member~~ attorney earns the incentives specified in the written agreement signed by the ~~member~~ attorney, the Court may shorten the Program term to as little as 18 months.
- (B) **Certification.** No ~~member~~ attorney may successfully complete the Program unless the Lawyer Assistance Program certifies that he or she has been substance-free for at least one year, or in the case of a ~~member~~ an attorney with mental health issues, a mental health professional's recommendation that is satisfactory to the Program Judge.

Rule 5.386 Effect of Later Proceedings on Program Participation

- (A) **Misconduct after Admittance to Program.** An inquiry, investigation, or proceeding against the ~~member~~ attorney in which the alleged misconduct occurred after the ~~member's~~ attorney's admittance to the Program may not be incorporated into the ADP proceeding without the stipulation of the parties and the approval of the Program Judge. The ~~member's~~ attorney's culpability for later acts of misconduct, if proved by clear and convincing evidence, may constitute grounds to terminate the ~~member~~ attorney from the Program.
- (B) **Misconduct before Admittance to Program.** An inquiry, investigation or proceeding against the ~~member~~ attorney in which the alleged misconduct occurred before the ~~member's~~ attorney's admittance to the Program may be incorporated into the ADP proceeding, if:
- (1) the parties stipulate to the facts and conclusions of law about the additional acts of misconduct; and
 - (2) the ~~member~~ attorney accepts any modifications to the alternative levels of disposition and conditions of participation recommended by the Program Judge.

- (C) **Release from Program.** The ~~member~~ attorney will be released from the Program if:
- (1) the parties do not agree to stipulate to the facts and conclusions of law under subsection (B) of this rule; or
 - (2) the ~~member~~ attorney refuses to accept the modified alternative levels of disposition recommended by the Program Judge.
- (D) **Conversion to Standard Disciplinary Proceeding.** If the ~~member~~ attorney is released under subsection (C), the entire proceeding will be assigned to another judge as a standard disciplinary proceeding and:
- (1) the Program Judge's written statement regarding the proposed disposition or recommendation to the Supreme Court is vacated; and
 - (2) the original stipulation of facts and conclusions of law that the parties signed when the ~~member~~ attorney entered the Program remains binding on the parties.

Rule 5.387 Termination from Program

Before terminating a ~~member~~ an attorney from the Program for failure to comply with Program requirements, the Court will issue an order to show cause notifying the parties of the Court's intent to terminate the ~~member~~ attorney from the Program and the proposed reasons for the termination. Within 10 days after the order to show cause is served, the parties may file a response. If timely requested by one or both of the parties in a written response, the Court will hold a hearing on the order.

Rule 5.388 Confidentiality

- (A) **Program; Pleadings; Order.** The fact that a ~~member~~ an attorney is currently in the Program and any pleadings or orders filed in the proceeding, including the stipulation as to facts and conclusions of law, will be public.
- (B) **Treatment.** All information about the nature and extent of the ~~member's~~ attorney's treatment is absolutely confidential and may not be disclosed to the public unless the ~~member~~ attorney waives confidentiality in writing.
- (C) **Documents Submitted to Court.** Documents that are submitted to the Court, including but not limited to, the Court's written statement of proposed disposition, the ~~member's~~ attorney's nexus evidence, the parties' briefs on the recommended disposition, and reports from the Lawyer Assistance Program about the ~~member's~~ attorney's compliance with Lawyer Assistance Program requirements, will not be public unless the Court orders the documents filed when the ~~member~~ attorney successfully completes the Program or the ~~member~~ attorney is terminated from the Program. When the proceeding concludes, all documents that the Court did not order to be filed will be sealed under rule 5.12.
- (D) **Permitted Disclosure.** Despite subsection (C), the Court may provide the Office of Probation and the Client Security Fund with documents necessary to

help the Office of Probation monitor the ~~member's~~ attorney's compliance with the Lawyer Assistance Program and this Program requirements and to help the Client Security Fund process any claim for reimbursement made against the Fund.

Rule 5.389 Review

- (A) **Decisions and Orders.** The following decisions and orders of the Program Judge may be reviewed by the Review Department:
- (1) The Program Judge's decision to grant or deny the ~~member~~ attorney admittance to the Program. The issues that may be raised on review may include, but are not limited to:
 - (a) whether the ~~member~~ attorney meets the eligibility requirements for admittance to the Program, and
 - (b) the appropriate disposition or recommendation for the level of discipline.
 - (2) The Program Judge's decision to terminate ~~a member~~ an attorney from the Program or to deny the State Bar's motion to terminate the ~~member~~ attorney from the Program.
- (B) **Procedure.** The procedure in rule 5.150 applies, except that the Review Department will:
- (1) independently review the record and may adopt findings, conclusions, and a decision or recommendation different from those of the Program Judge;
 - (2) decide matters before it under this rule en banc, but two judges of the Review Department will constitute a quorum; and
 - (3) file its opinion or order within 60 days after the matter is submitted.

Division 6. Special Proceedings

Chapter 6. Legal Specialization Proceedings

Rule 5.390 Scope

These rules apply to proceedings and hearings before the State Bar Court pursuant to State Bar Rules, Title 3, Division 2, Chapter 2, rule 3.125, wherein ~~a member~~ an attorney can seek review of the denial of certification as a legal specialist, or suspension or revocation of such certification, by the Board of Legal Specialization. The State Bar Court will independently review the record and may make findings, conclusions, or a decision or recommendation different from those of the Board of Legal Specialization. The findings of fact of the Board of Legal Specialization are entitled to great weight.

Eff. July 24, 2015.

Rule 5.391 Beginning Proceeding; Time for Filing

If the Board of Legal Specialization denies, suspends, or revokes ~~a member's~~ an attorney's legal specialization certification, the ~~member~~ attorney may file an application for a legal specialization certification proceeding and hearing. Within 30 days after

notice of such denial, suspension or revocation is served, an application must be served under rule 5.25 and filed, accompanied by supporting documents, including a copy of the notice of denial, suspension or revocation, the applicable filing fee, and proof of service upon the Board of Legal Specialization and the Office of the Chief Trial Counsel.

Eff. July 24, 2015.

Rule 5.392 Response to Application

Within 30 days after the filing of the motion, the Office of the Chief Trial Counsel will file with the Court and serve upon the ~~member~~ attorney a response to the application.

Eff. July 24, 2015.

Rule 5.393 Discovery

- (A) Generally. No discovery is permitted in a proceeding under these rules.
- (B) Limited Discovery. For good cause, the Court may permit limited discovery.

Eff. July 24, 2015.

Rule 5.394 Issues Not Subject to Review

The following grounds for the Board of Legal Specialization's denial, suspension or revocation of a certificate as a legal specialist are not subject to review:

- (A) Failure to pass the written legal specialist certification examination. The examination grades given by the readers or by the Board of Legal Specialization are deemed final and are not subject to review; and
- (B) Denial, suspension or revocation by the Board of Legal Specialization based upon final disciplinary action by the Supreme Court, the State Bar Court or any other body authorized to impose professional discipline.

Eff. July 24, 2015.

Rule 5.395 Hearing Procedure; Evidence

- (A) Declarations. Subject to appropriate objection, the Court will admit in evidence the declarations submitted in support of and in response to the action taken by the Board of Legal Specialization.
- (B) Cross-Examination. In a pleading, an opposing party may ask that a declarant be produced for cross-examination at the hearing. If the request is filed and served at least 10 days before the hearing or, if the declaration was filed under rule 5.362, within three court days after the declaration was served, the party that filed the declaration must produce the declarant as requested.

Eff. July 24, 2015.

Rule 5.396 Burden of Proof

The burden of proof is on the ~~member~~ attorney to prove by clear and convincing evidence that he or she satisfies the requirements for certification or recertification as a legal specialist.

Eff. July 24, 2015.

Rule 5.397 Review

A ruling by the hearing judge under these rules is reviewable under rule 5.150.

Eff. July 24, 2015.

Rule 5.398 Effect of State Bar Court Decision

The decision of the hearing judge, or (if review is requested) the decision of the Review Department, is the final State Bar Court decision in the proceeding. Unless the California Supreme Court grants a petition for review, the decision is binding on the ~~member~~, attorney, the Office of the Chief Trial Counsel, and the Board of Legal Specialization.

Eff. July 24, 2015.

Rule 5.399 Inapplicable Rules

The following rules do not apply in a legal specialization proceeding:

- (A) General. Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) Specific. Rules 5.50 (abatement); rules 5.60-5.71 (subpoenas and discovery); rules 5.80-5.100 (default; obligation to appear at trial); and rules 5.105-5.108 (admission of certain evidence); rules 5.151-5.108 (review).

Eff. July 24, 2015.

Division 7. Regulatory Proceedings

Chapter 1. Proceedings to Demonstrate Rehabilitation, Fitness, and Present Learning and Ability in the Law according to Standard 1.2(c)(1)

Rule 5.400 Scope and Expedited Nature of Proceeding

- (A) **Scope.** These rules apply when a petitioner seeks relief from actual suspension under a disciplinary order that requires compliance with standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

- (B) **Service.** The petition and all pleadings, decisions and other documents must be served by personal delivery or by overnight mail.

Eff. January 1, 2011. Revised January 1, 2019.

Rule 5.401 Petition for Relief from Actual Suspension

- (A) **Verification; Statements.** The petitioner must verify the petition for relief and state with particularity the facts alleged to demonstrate the petitioner's rehabilitation, present fitness to practice, and present learning and ability in the general law.
- (B) **Attachments.** The petition must be supported by declarations, exhibits, or requests for judicial notice to establish the alleged facts.
- (C) **Filing and Service.** No filing fee will be charged to file the petition. The petitioner must serve a copy of the verified petition and supporting documents on the Office of the Chief Trial Counsel by personal delivery or overnight mail.

Rule 5.402 Earliest Time for Filing

The earliest a petition may be filed is six months before the actual suspension may be terminated. If a prior petition was denied, a subsequent petition may be filed six months after the order is final, unless the Court orders a shorter period for good cause.

Rule 5.403 Response; Request for Hearing

- (A) **Timing of Response.** Within 90 days after the petition is served, the Office of the Chief Trial Counsel must file and serve a response, which may be accompanied by declarations, exhibits, and requests for judicial notice.
- (B) **Position Taken.** The response will:
- (1) oppose the petition;
 - (2) state that the Office of the Chief Trial Counsel does not oppose the petition; or
 - (3) state that the Office of the Chief Trial Counsel does not possess sufficient facts to determine whether or not it opposes the petition.
- (C) **Hearing.** A hearing will be, and 15 days' notice will be given, under the following circumstances:
- (1) the Office of the Chief Trial Counsel opposes the petition or states that it does not possess sufficient facts to determine whether or not it opposes the petition;
 - (2) any party requests a hearing; or
 - (3) the Court is considering denying the petition.

- (D) **No Hearing.** If the Office of the Chief Trial Counsel's response states that it does not oppose the petition, and no party has requested a hearing, the Court may consider and grant the petition without a hearing.
- (E) **Withdrawal of Petition.** The petitioner may elect to withdraw the petition without prejudice at any time before the matter is submitted.

Eff. January 1, 2011. Revised July 1, 2014; January 1, 2019.

Rule 5.404 Burden of Proof

The petitioner has the burden of proving by a preponderance of the evidence that the petitioner has satisfied the conditions of standard 1.2(c)(1).

Rule 5.405 Discovery

- (A) **Deposition.** The Office of the Chief Trial Counsel may take the petitioner's deposition promptly after the petition is filed. Unless the Court orders an extension for good cause, the timing of the deposition will not extend any time limits required under these rules. A petitioner for reinstatement who does not reside in California must be given 30 days' written notice of the time and place of the deposition, and must appear for it in California at his or her own expense.
- (B) **Other Discovery.** The Office of Chief Trial Counsel may issue subpoenas duces tecum after the petition is filed. Unless the Court orders an extension for good cause, receipt of documents pursuant to a subpoena duces tecum will not extend any time limits required under these rules. All responses to subpoenas received by the Office of Chief Trial Counsel must be provided to petitioner within three court days of receipt. No other discovery will be allowed unless ordered by the Court for good cause. The Court's order will set forth the permitted extent and conditions for additional discovery.

Eff. January 1, 2011. Revised January 1, 2019.

Rule 5.406 Documentary Evidence

Except on Court order for good cause, no party may submit documentary evidence other than that filed with the application or the response. A request to submit additional documentary evidence must be written, have a copy of the proposed documentary evidence attached, and be filed and served at least 10 days before the hearing.

Rule 5.407 Testimonial Evidence

- (A) **Petitioner; Rebuttal.** The petitioner may testify at the hearing. Any party may present oral testimony to rebut oral testimony presented by the opposing party.

- (B) **Other Oral Testimony.** Other oral testimony is not permitted unless ordered by the Court for good cause shown. A party who wants to present oral testimony for purposes other than rebuttal must file a written statement summarizing the proposed testimony and stating the reasons why the testimony cannot be presented by declaration. The statement must be filed and served at least 10 days before the hearing.

Rule 5.408 Decision

Unless the petitioner waives the time or additional time is otherwise justified by the circumstances, the Court will file its decision within 30 days after the hearing ends. If no hearing is held, the Court will file its decision within 30 days after the Office of the Chief Trial Counsel files its response, or if none was filed, within 30 days from the date the response was due. The decision granting or denying the petition must contain findings of fact and conclusions of law.

Eff. January 1, 2011. Revised January 1, 2019.

Rule 5.409 Review

A decision is reviewable under rule 5.150. The Review Department's decision must be filed within 60 days after the matter is submitted.

Eff. January 1, 2011. Revised January 1, 2019.

Rule 5.410 Termination of Actual Suspension

While the petition is pending before the Court, the petitioner will remain on actual suspension. If the petition is granted, the petitioner will remain on actual suspension until the actual suspension period expires, and until the petitioner satisfies any other requirements for terminating actual suspension under the disciplinary order.

Rule 5.411 Applicable Rules

- (A) **Inapplicable Rules.** The following rules do not apply to proceedings on a petition for relief from actual suspension under standard 1.2(c)(1):
- (1) rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
 - (2) rules 5.80-5.100 (default; obligation to appear at trial) and rules 5.151-5.157 (review).
- (B) **Conditionally Applicable.** All other rules apply, except that:
- (1) Rules 5.25 (service of initial pleading) and 5.26 (service of subsequent pleadings) apply subject to the provisions of rule 5.400(B), and
 - (2) Rules 5.65-5.71 (discovery) apply only if and to the extent that the Court permits additional discovery.

Eff. January 1, 2011. Revised January 1, 2019.

Chapter 2. Resignation Proceedings

Rule 5.420 Resignation with Charges Pending

California Rules of Court, rule 9.21, governs resignations with charges pending. A resignation must be in the form required by rule 9.21(b). Charges are pending when the member attorney is the subject of an investigation by the Office of Investigations or a disciplinary proceeding under these rules, or when the member attorney is the subject of a criminal charge or investigation, or has been convicted of a felony or misdemeanor.

Rule 5.421 Perpetuation of Evidence

When a resignation is filed with the State Bar Court, the Office of the Chief Trial Counsel may perpetuate testimony and documentary evidence about the member's attorney's conduct that is pertinent to any future inquiry into the member's attorney's conduct or qualification to practice law.

Rule 5.422 Notice of Intent to Perpetuate Evidence

Within 30 days after the member's attorney's resignation with charges pending is filed, the Office of the Chief Trial Counsel may file and serve a notice of intent to perpetuate evidence. The notice must contain an estimate of the time required to complete perpetuation.

Rule 5.423 Perpetuation Procedure

- (A) Beginning.** After filing a notice of intent to perpetuate, the Office of the Chief Trial Counsel may begin perpetuating the evidence.
- (B) Perpetuation Process.** Evidence is perpetuated by obtaining depositions or stipulations as to facts. The member attorney may not take any witness's deposition except by order of the Court for good cause shown. Good cause is established when a witness is a person whose testimony should be taken in the interest of justice and when such action is consistent with the limited purpose of perpetuation.
- (C) Motions; Status Reports.** When a motion arising in the course of perpetuation is filed, a hearing judge will be assigned to rule on the motion. In addition to ruling on the motion, the hearing judge may set status conferences or require status reports to monitor the progress of the perpetuation.

Rule 5.424 Report of Completion

When perpetuation is complete, the Office of the Chief Trial Counsel must file and serve on the ~~member~~ attorney a notice that perpetuation is complete. On request and at the ~~member's~~ attorney's expense, the ~~member~~ attorney may obtain a copy of the evidence perpetuated from the Office of the Chief Trial Counsel.

Rule 5.425 Use of Perpetuated Evidence

Subject to rule 5.104, the evidence perpetuated may be admitted in evidence in any future proceeding pertaining to the ~~member's~~ attorney's conduct or qualifications to practice law. But the Office of the Chief Trial Counsel may introduce deposition testimony as permitted under Code of Civil Procedure § 2025.620(c) without showing that any enumerated factor is present.

Rule 5.426 Inapplicable Rules

The following rules do not apply in proceedings on resignations with charges pending and perpetuation of evidence:

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rule 5.25 (service of initial pleadings); rule 5.42 (motions which extend time to file response); rules 5.50-5.52 (abatement); rules 5.80-5.100 (default; obligation to appear at trial); rules 5.101-5.114 (pretrial, trial, evidence, decision, post-trial motions); rules 5.120-5.127 (dispositions); and rules 5.151-5.157 (review).

Rule 5.427 Procedure for Consideration and Transmittal of Resignations with Disciplinary Charges Pending

- (A) **Filing and Serving Resignation.** The written resignation of ~~a member~~ an attorney against whom disciplinary charges are pending must be submitted to the Clerk of the State Bar Court in Los Angeles. The Clerk will file the resignation if it is dated, bears the ~~member's~~ attorney's signature, and is in the form required by California Rules of Court, rule 9.21(b). When the resignation is filed, the Clerk will serve a copy on the Office of the Chief Trial Counsel.
- (B) **Stipulation regarding Pending Investigations, Complaints or Proceedings.** Within 60 days from the date the resignation is filed, the ~~member~~ attorney and the Office of the Chief Trial Counsel must enter into a written stipulation as to facts and conclusions of law regarding any disciplinary complaints, investigations or proceedings that are pending against the ~~member~~ attorney at the time his or her resignation was filed. If the ~~member~~ attorney and the Office of the Chief Trial Counsel have not entered into such stipulation, the Office of the Chief Trial Counsel must report that fact

and the reasons therefor to the Review Department in its report under subsection (C).

- (C) **Report by the Office of the Chief Trial Counsel.** Within 60 days from the date the resignation is filed, the Office of the Chief Trial Counsel must file with the Review Department and serve upon the ~~member~~ attorney pursuant to rule 5.25, a report setting forth the extent, if any, to which any of the factors enumerated in rule 9.21(d) of the California Rules of Court are present and whether, in light of the application of those factors, the ~~member's~~ attorney's resignation should be accepted. All documents referenced in the report, including notices of disciplinary charges and prior records of discipline, must be filed with the report and supported by declaration.
- (D) **Response to Report.** Within 30 days of service of the Office of the Chief Trial Counsel's report, the ~~member~~ attorney may file a response with the Review Department and must serve it on the Office of the Chief Trial Counsel.
- (E) **Decision or Order.** Within 30 days of the filing of the ~~member's~~ attorney's response to the Office of the Chief Trial Counsel's report or the expiration of the period for filing such response, whichever occurs first, the Review Department will file an order or decision pursuant to rule 9.21(c) of the California Rules of Court recommending, in light of the factors enumerated in rule 9.21(d), whether the ~~member's~~ attorney's resignation should be accepted by the Supreme Court and the reasons for the Review Department's recommendation.
- (F) **Transmittal of Resignation.** Within 15 days of the filing of the Review Department's order regarding the ~~member's~~ attorney's resignation, the Clerk of the State Bar Court shall transmit the ~~member's~~ attorney's resignation to the Clerk of the Supreme Court, together with the Review Department's order or decision regarding acceptance or rejection of the resignation.

Eff. January 1, 2011. Revised July 1, 2014.

Chapter 3. Reinstatement Proceedings

Rule 5.440 Beginning Proceeding

- (A) **Applicability of Rules.** These rules apply to proceedings for reinstatement to ~~membership in~~ of license with the State Bar after resignation with or without charges pending and after disbarment.
- (B) **Reinstatement Proceedings Do Not Have Calendar Preference.** Reinstatement proceedings are not to be expedited and will not receive calendar preference over disciplinary proceedings that are ready for trial.

- (C) **Petition.** The party seeking reinstatement begins the reinstatement proceeding by filing and serving a petition for reinstatement and paying the required fee.

Eff. January 1, 2011. Revised January 1, 2019.

Rule 5.441 Filing Requirements

- (A) **Filing Petition, Disclosure Statement, and Authorization and Release.** A petitioner must complete and verify a petition and disclosure statement on the forms approved by the Court and in compliance with the instructions therein. The original and three copies of the petition must be filed with the Clerk of the State Bar Court. The disclosure statement is not filed with the Court but must be served on the Office of the Chief Trial Counsel. In addition, a petitioner must complete an authorization and release approved by the State Bar. The authorization and release is not filed with the Court but must be served on the Office of the Chief Trial Counsel.
- (B) **Pre-Filing Requirements and Proof.** Prior to filing the petition, the petitioner must satisfy the following requirements and must attach proof of compliance to the petition:
- (1) **Fingerprints Submitted.** Under Business and Professions Code § 6054, the petitioner must have submitted fingerprints to the California Department of Justice via Live Scan technology, or if the petitioner resides outside the state, two sets of original fingerprints on record cards furnished by the State Bar must have been submitted to the Office of the Chief Trial Counsel;
 - (2) **Discipline Costs Paid and Client Security Fund Payments Reimbursed.** Petitioner must have paid all discipline costs imposed under § 6086.10(a) and reimbursed all payments made by the Client Security Fund as a result of the petitioner's conduct, plus applicable interest and costs, under Business and Professions Code § 6140.5(c).
 - (3) **Passage of the Attorneys' Examination.**
 - (a) **Resigned with Charges Pending or Disbarred.** Petitioners who resigned with charges pending or who were disbarred must establish that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the petition for reinstatement.
 - (b) **Resigned without Charges Pending.** Petitioners who resigned without charges pending more than five years before filing the petition for reinstatement must establish that they have taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within five years prior to the filing of the application for readmission or reinstatement.
- (C) **Filing Fee.** The petition must include a filing fee of \$1,600, which will be given to the Office of the Chief Trial Counsel to defray incurred costs. The Clerk will reject the petition for filing if the fee is not included.

- (D) **Service.** The petition and disclosure statement must be served on the Office of the Chief Trial Counsel under rule 5.25.
- (E) **Dismissal.** Failure to comply with any of the requirements of this rule will be grounds to dismiss the petition.

Eff. January 1, 2011. Revised November 18, 2016.

Rule 5.442 Earliest Time for Filing Reinstatement Petition

- (A) **Filing after Resignation without Charges Pending.** After resignation without charges pending, a first or subsequent petition for reinstatement may be filed at any time.
- (B) **Filing after Resignation with Charges or Disbarment.** Except as provided in the order of disbarment, no petition for reinstatement will be filed within five years after the effective date of the petitioner's disbarment, interim suspension following a disbarment recommendation, or interim suspension following criminal conviction, or the filing date of the petitioner's resignation with charges pending, whichever occurred earliest. No petitioner who has been disbarred by the Supreme Court on two previous occasions may apply for reinstatement.
- (C) **Subsequent Petitions.** If a petitioner received an adverse decision on a prior petition following disbarment or resignation with charges pending, a subsequent petition cannot be filed for two years after the effective date of the adverse decision, unless a shorter period is ordered by the Court for good cause.

Rule 5.443 Investigation and Discovery

- (A) **Initial Investigation.** For 120 days after the petition is filed with the Court, the Office of the Chief Trial Counsel will investigate the petition to determine whether to oppose it. For good cause, the Court may extend the investigation period.
- (B) **Response to Petition.** Within 10 days after the investigation period ends, the Office of the Chief Trial Counsel will file and serve a response to the petition stating, for each issue set forth in rule 5.445 (A) or (B), whether it opposes the petition. If it opposes the petition, the Office of the Chief Trial Counsel will state in its response its grounds for opposition.
- (C) **Discovery and Subsequent Investigation.** For 120 days after its response to the petition is filed, the Office of Chief Trial Counsel may conduct discovery and complete its investigation of the matter. Except as set forth in subsection (D), discovery may be conducted under rule 5.65. Requests for discovery

must be made within 15 days after service of the Office of the Chief Trial Counsel's response.

- (D) Petitioner's Deposition.** The Office of the Chief Trial Counsel may take the petitioner's deposition. It must be held no later than 45 days after the date the response is due under subsection (B). A petitioner for reinstatement who resides outside California must appear in California at his or her own expense for his or her deposition, on 30 days' written notice of the time and place of the deposition.

Eff. January 1, 2011. Revised July 1, 2014; January 1, 2019.

Rule 5.444 Notice of Hearing; Publication

The Clerk will serve notice of the hearing on the parties. The Office of the Chief Trial Counsel may publish the fact that a petition for reinstatement has been filed with the State Bar Court, the petitioner's identity, and other relevant information identifying the proceeding.

Rule 5.445 Burden of Proof

- (A) Reinstatement after Resignation with Charges Pending or Disbarment.** Petitioners for reinstatement must:
- (1) pass a professional responsibility examination within one year prior to filing the petition;
 - (2) establish their rehabilitation;
 - (3) establish present moral qualifications for reinstatement; and
 - (4) establish present ability and learning in the general law by providing proof that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the petition.
- (B) Reinstatement after Resignation without Charges Pending.** Petitioners for reinstatement must:
- (1) pass a professional responsibility examination within one year prior to filing the petition;
 - (2) establish their present moral qualifications for reinstatement; and
 - (3) establish present ability and learning in the general law. If the petitioner resigned without charges pending more than five years before filing the petition, the petitioner must establish present ability and learning in the general law by providing proof that he or she has taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within five years prior to the filing of the petition.

Rule 5.446 Inapplicable Rules.

The following rules do not apply in a reinstatement proceeding:

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.80-5.100 (default; obligation to appear at trial) and rules 5.105-5.108 (admission of certain evidence).

Chapter 4. Moral Character Proceedings

Rule 5.460 Scope

These rules apply to proceedings and hearings before the State Bar Court to determine whether an applicant for admission to the practice of law in California possesses good moral character within the meaning of Business and Professions Code § 6060(b) and Chapter 4, Moral Character Determination, under Title 4, Admissions and Educational Standards. The hearings before the State Bar Court are de novo and are not limited to matters considered by the Committee of Bar Examiners.

Rule 5.461 Beginning Proceeding; Time for Filing

If the Committee of Bar Examiners makes an adverse moral character determination, the applicant may file an application for a moral character proceeding and hearing. Within 60 days after the notice of adverse moral character determination is served, the application and supporting documents must be served under rule 5.25 and filed, accompanied by a copy of the notice of adverse moral character determination, the applicable filing fee, and proof of service upon the Committee of Bar Examiners and the Office of the Chief Trial Counsel.

Rule 5.462 Time to Complete Investigation; Response to Application

- (A) **Investigation.** For 120 days after the application is filed, the Office of the Chief Trial Counsel will conduct an independent investigation of the applicant's moral character. For good cause, the Court may extend the investigation period.
- (B) **Response.** Within 10 days after the investigation period ends, the Office of the Chief Trial Counsel will file with the Court and serve a response to the application. If the application is opposed, the response will state the grounds for opposition.

Rule 5.463 Discovery

- (A) **Discovery.** Except as set forth in subsection (B), after the investigation ends, discovery may be conducted under rule 5.65. Requests for discovery must be made within 15 days after service of the Office of the Chief Trial Counsel's response.

- (B) **Applicant's Deposition.** The Office of the Chief Trial Counsel may take the applicant's deposition. It must be held no later than 45 days after the date the response is due under rule 5.462(B). An applicant who resides outside California must appear in California at his or her own expense for his or her deposition, on 30 days' written notice of the time and place of the deposition.

Rule 5.464 Abatement of Proceeding

- (A) **Motion to Abate.** Upon motion by any party, or upon the Court's motion after notice to the parties, the Court may order a proceeding under these rules abated for a time and on terms it deems proper.
- (B) **Staying and Tolling Effects.** Abatement stays the proceeding and tolls all time limitations in the State Bar Court. But upon motion, and for good cause shown, the Court may order perpetuation of evidence. Abatement of a proceeding under this rule does not toll or extend the time limitation in rule 4.17 under Title 4, Admissions and Educational Standards.
- (C) **Abeyance.** Abatement under this rule is not intended as a substitute for the program of abeyance agreements administered by the Committee of Bar Examiners under Title 4, Admissions and Educational Standards.
- (D) **Abatement Alternatives.** Before determining the merits of the proceeding, a proceeding cannot be abated or continued to allow a party to undertake or pass the California Bar Examination. Other forms of relief, such as continuing the trial and withdrawing an application, are preferred to abatement under this rule and will be granted instead of abatement unless the Court determines that no other remedy is adequate to address the issues raised by the party seeking abatement.
- (E) **Consideration of Motion.** In considering a motion under this rule, the Court may consider any relevant factor, including the following:
- (1) any prejudice to a party that may result if the proceeding is abated;
 - (2) any prejudice to a party that may result if the proceeding is not abated;
 - (3) the delay in the proceeding before it that would result from waiting for the outcome of a related proceeding;
 - (4) the probability that the proceeding before it would be expedited or aided in determining a material issue by waiting for evidence to be adduced in a related proceeding or by awaiting the outcome of a related proceeding;
 - (5) the extent to which evidence may be unavailable in the State Bar Court proceeding because of any delay occasioned by withholding further action; and
 - (6) the extent to which parties, witnesses or documents may be unavailable or unable to participate in the State Bar Court proceeding for reasons beyond the parties' control.

- (F) **“Related Proceeding” Defined.** For purposes of this rule, a “related proceeding” is any civil, criminal, administrative, or licensing proceeding involving the applicant’s conduct that is or is likely to be an issue in the proceeding before the Court.
- (G) **Review.** Review of a hearing judge’s ruling on a motion under this rule may be sought under rule 5.150.

Rule 5.465 Effect of State Bar Court Decision

The decision of the hearing judge, or (if review is requested) the decision of the Review Department, is the final State Bar Court decision in the proceeding. Unless the California Supreme Court grants a petition for review, the decision is binding on the applicant, the Office of the Chief Trial Counsel, and the Committee of Bar Examiners.

Rule 5.466 Inapplicable Rules

The following rules do not apply in a moral character proceeding:

- (A) **General.** Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) **Specific.** Rules 5.50 (abatement); rules 5.80-5.100 (default; obligation to appear at trial); and rules 5.105-5.108 (admission of certain evidence).

TITLE III GENERAL PROVISIONS

STATE BAR NOTE: The rules in Title III were not included in the rule revisions adopted by the Board of Trustees effective January 1, 2011. The rule numbers and language of Title III remain the same and will remain in effect in their current form. To the extent any rule of procedure is referenced within Title III, that rule shall be applicable in its revised form, which can be determined using the Rule Number Conversion Chart at pages xiv - xxii.

DIVISION I. STATE BAR COURT

Rule 1000. STATE BAR COURT

The State Bar Court is the court created pursuant to section 6086.5 of the Business and Professions Code, consisting of judges and judges pro tempore.

Eff. September, 1989. Revised and renumbered: November 1, 1995.
Source: TRP 100.

Rule 1001. DEPARTMENTS OF THE STATE BAR COURT

The State Bar Court is organized into the following departments:

- (a) The Hearing Department, consisting of hearing judges and judges pro tempore; and
- (b) The Review Department, consisting of the presiding judge and the review judges (including, in a particular matter, any judge designated to serve under 305 (d)).

Eff. September, 1, 1989. Revised: January 1, 1993. Revised and renumbered: November 1, 1995.
Source: TRP 101.

Rule 1005. OATH

Every member of the State Bar Court and every person appointed to serve in a similar capacity shall take an oath of office.

Eff. September, 1, 1989. Revised and renumbered: November 1, 1995.
Source: TRP 105.

Rule 1010. EXECUTIVE COMMITTEE

- (a) The Executive Committee of the State Bar Court shall consist of no fewer than seven persons appointed by the presiding judge pursuant to subdivision (c) of section 6086.65 of the Business and Professions Code. The Executive Committee may:

- (1) Adopt rules of practice, including State Bar Court forms, for the conduct of all proceedings within the State Bar Court's jurisdiction; and
 - (2) Serve in an advisory capacity to the judges of the State Bar Court.
- (b) Meetings of the Executive Committee shall be held at such times and places as are prescribed by the Executive Committee or the presiding judge.
 - (c) A majority of the members of the Executive Committee then in office shall constitute a quorum for the transaction of business at a meeting and the action of a majority of the members present at such meeting shall constitute the action of the Executive Committee.

Eff. September 1, 1989. Retitled: January 1, 1995. Renumbered and revised: November 1, 1995.
Source: TRP 110, 111, 112.

Rule 1011. COURT MEETINGS

- (a) Notwithstanding Rule 1010, the judges of the State Bar Court may meet from time to time, as appropriate, to consider policy, operational or other matters relating to their duties and functions.
- (b) The judges of the Hearing or Review Departments may convene separately to discuss matters within their exclusive purview.

Eff. November 1, 1995.
Source: New

Rule 1013. PRESIDING JUDGE DUTIES

The presiding judge shall:

- (a) Be the spokesperson for the State Bar Court;
- (b) Preside at meetings of the Executive Committee and over all meetings of the combined Review and Hearing Department judges and at all meetings of the Review Department;
- (c) Appoint such (standing or special) committees of the State Bar Court as may be advisable to assist the State Bar Court, the Executive Committee and the presiding judge in the proper performance of their respective duties;
- (d) Provide for overall supervision of calendar management and assignment of judges for all matters within the jurisdiction of the State Bar Court;
- (e) Represent the State Bar Court in the State Bar budgetary process;

- (f) Designate another member of the Review Department to act as presiding judge for Review Department functions when the presiding judge is unavailable, except as provided by rule 305(d); and
- (g) Take reasonable measures to assure the prompt disposition of matters before the judges of the State Bar Court and the proper performance of their other adjudicatory responsibilities.

Eff. September 1, 1989. Retitled: January 1, 1995. Revised and renumbered: November 1, 1995. Source: TRP 113 (substantially revised).

Rule 1014. SUPERVISING JUDGE OF THE HEARING DEPARTMENT

A supervising judge of the Hearing Department shall be annually appointed by the presiding judge, subject to the concurrence of a majority of the judges of the Hearing Department. The supervising judge of the Hearing Department shall:

- (a) Appoint such (standing or special) committees of the Hearing Department as may be advisable to assist the Hearing Department in the proper performance of its duties;
- (b) Supervise matters internal to the Hearing Department, including calendar management and assignment of judges in accordance with the rules of practice and general orders of the presiding judge;
- (c) Preside over meetings, as appropriate, of the State Bar Court Hearing Department judges;
- (d) Perform non-Review Department functions of the presiding judge in his or her absence to the extent permitted by statute and not contrary to these rules;
- (e) Appoint an assistant supervising judge, if needed, with the concurrence of the presiding judge; and
- (f) Consult on a regular basis with the presiding judge to assure efficient functioning of the State Bar Court.

Eff. September 1, 1989. Revised and renumbered: November 1, 1995.
Source: New (but see TRP 114).

Rule 1015. ADJUDICATORY INDEPENDENCE

- (a) No State Bar entity, officer, employee or agent shall interfere with the adjudicatory independence of the State Bar Court to hear and decide the matters submitted to it fairly, correctly and efficiently.
- (b) The State Bar Court shall identify and determine its priorities and the staff work necessary to support its adjudicatory responsibilities.

Eff. September. 1, 1989. Revised and renumbered: November 1, 1995.
Source: New (but see TRP 115).

Rule 1016. ADMINISTRATIVE FUNCTIONS

The State Bar shall provide adequate staff and facilities to support the adjudicatory functions of the State Bar Court. The Board of Trustees, in consultation with the presiding judge of the State Bar Court, shall determine, in the proper exercise of its executive and fiscal authority over the State Bar, the staffing levels and facilities required to meet the State Bar Court's stated priorities and adjudicatory responsibilities. The Board of Trustees shall direct the Executive Director to assign the appropriate staff and resources and to provide a process for the meaningful input of the State Bar Court judges concerning the performance of the executive and other staff assigned. The Executive Director may, after consultation with the presiding judge, designate an executive staff member to serve as the State Bar Court's administrative officer to:

- (a) Be responsive to the expressed needs and priorities of the State Bar Court;
- (b) Assure the effective functioning and efficient management of the operations and staff of the State Bar Court;
- (c) Assure compliance with State Bar policies, procedures, statutory and other mandated duties;
- (d) Consult regularly with the judges of the State Bar Court regarding the execution of these administrative responsibilities;
- (e) Aid the presiding and supervising judges in the performance of their responsibilities;
- (f) Protect the confidentiality of the State Bar Court; and
- (g) Perform other duties as are consistent with this rule.

Nothing in this rule shall preclude a State Bar Court judge from exercising appropriate control over courtroom personnel in the courtroom.

Eff. November 1, 1995.
Source: New.

STATE BAR NOTE

To effectuate rule 1016, the Executive Director of the State Bar has adopted the following process statement:

PROCESS PURSUANT TO RULE 1016, RULES OF PROCEDURE OF THE STATE BAR

As used in this process the word "Court" means the State Bar Court; the words "judges" or "judge" means the judges or a judge of the State Bar Court; the words "Administrative Officer" means the Administrative Officer of the State Bar Court; the words "Executive Director" means the Executive Director of the State Bar.

The judges shall identify and prioritize the staff work they perceive necessary to support the Court's adjudicatory responsibilities and accomplish its mission goals and objectives.

In consultation with the judges, the Administrative Officer shall, consistent with State Bar policies, cause the Court's mission, goals, objectives and priorities to be reflected in performance expectations for the staff assigned to support the Court.

The Administrative Officer shall consult with the judges to assure that the Court's priorities are being met to the extent possible within the resources allocated to support the Court.

Periodically, and not less than annually, the Administrative Officer shall poll each judge regarding the performance of the staff assigned to support the Court. Any concerns or problems identified shall be addressed by the Administrative Officer. Any concerns or problems which the judges believe are not adequately addressed by the Administrative Officer may be presented to the Executive Director.

The Executive Director, in consultation with the judges and the Administrative Officer, shall establish performance expectations for the Administrative Officer.

Periodically, and not less than annually, the Executive Director shall solicit the opinions of each judge regarding the performance of the Administrative Officer. Any concerns or problems identified shall be addressed by the Executive Director.

Each judge and the Court as a whole are encouraged to communicate to the Administrative Officer with regard to any member of the State Bar Court staff (including the Administrative Officer), or to the Executive Director with regard to the Administrative Officer, more frequently as needed to assure appropriate support.

Source: New.

DIVISION II. CHIEF TRIAL COUNSEL STATE BAR NOTE

Formerly TRP Division III General Provisions and Division IV Provisions Applicable to Various Proceedings. Division III General Provisions, Chapter 1 Address Requirements of ~~Members Attorneys~~ and Former ~~Members Attorneys~~, TRP 201 is deleted. Chapter 5 Service and Filing of Papers, TRP 240-243, Chapter 6 Venue, TRP 250-252, Chapter 7 Consolidation and Transfer, TRP 262, Chapter 8 Transcripts, TRP 271, Chapter 10

Stays, TRP 350-352, Chapter 11 Stipulation and Terminations, TRP 401-415, Chapter 12 Review, TRP 450-455, Chapter 13 Costs of Disciplinary Proceedings Authorized by 1986 Cal. Stats., C. 622, TRP 460-464 are superseded by Title II. For notes regarding TRP Division IV Provisions Applicable to Various Proceedings, see new Division IV Provisions Applicable to Various Proceedings below.

CHAPTER 1. CHIEF TRIAL COUNSEL

STATE BAR NOTE

Formerly TRP Division III General Provisions, Chapter 2, State Bar Examiners and Investigations.

Rule 2101. AUTHORITY OF THE OFFICE OF THE CHIEF TRIAL COUNSEL

The Board of Trustees of the State Bar delegates to the Office of the Chief Trial Counsel exclusive jurisdiction to review inquiries and complaints, conduct investigations and determine whether to file notices of disciplinary charges in the State Bar Court, except as provided in Title III, rules 2201 and 2502, and Title II, rules 150-157.

Eff. January 1, 1996.

Source: New (but see TRP 210, 211).

CHAPTER 2. SPECIAL DEPUTY TRIAL COUNSEL

Rule 2201. APPOINTMENT AND AUTHORITY

(a) The Chief Trial Counsel or designee shall recuse herself or himself when:

(1) Any inquiry or complaint is about:

- i. The Chief Trial Counsel or designee;
- ii. ~~A member~~ An attorney employed by the State Bar of California;
- iii. An attorney member of the Board of Trustees;
- iv. An attorney member of ~~the executive committee of any State Bar section,~~ committee or commission; or
- v. ~~A member~~ An attorney who has a current or recent personal, financial, or professional relationship to the Office of the Chief Trial Counsel or its employees; or,

(2) The Chief Trial Counsel or designee believes:

- i. That his or her recusal would further the interests of justice; or,

- ii. There is a substantial doubt as to his or her capacity to be impartial; or
- (3) A person aware of the facts might reasonably entertain a doubt that the Chief Trial Counsel or designee would be able to be impartial.

(b) The Chief Trial Counsel may recuse herself or himself:

- (1) If she or he receives an inquiry or complaint concerning ~~a member~~ an attorney who has a current or recent personal, financial, or professional relationship to the State Bar, its employees, other than those employees referenced in subsection (a)(1)(v), above or a non-attorney member of the Board of Trustees; or
- (2) in other appropriate circumstances to avoid the appearance of any impropriety when it appears that the ~~member~~ attorney who is the subject of the inquiry or complaint will not receive fair treatment.

(c) Duties of the Special Deputy Trial Counsel Administrator

- (1) In the event of the Chief Trial Counsel's recusal, the inquiry or complaint shall be referred to the Deputy Trial Counsel Administrator or designee ("Administrator").
- (2) The Administrator shall conduct a preliminary review of the inquiry or complaint which includes reasonable and limited outside inquiries.
- (3) If the Administrator determines that the factual allegations of the inquiry or complaint are not sufficiently specific, or that the factual allegations contained therein, if proven, would not result in discipline of the ~~member~~ attorney, the Administrator shall close the matter. In all other cases, including where the Administrator is unable to determine whether the factual allegations, if proven, would result in discipline of the ~~member~~ attorney, the Administrator shall refer the matter to a Special Deputy Trial Counsel for investigation.
- (4) The preliminary review required by section (c)(2-3) shall be completed within sixty (60) days after the written inquiry or complaint is first received, provided, however, that such time limit is not jurisdictional.
- (5) A complainant may request review of a decision by an Administrator to close a complaint or inquiry. The Administrator shall refer such a request for review to a Special Deputy Trial Counsel.

(d) Duties of Special Deputy Trial Counsel

- (1) Upon receipt of a referral by the Administrator, the Special Deputy Trial Counsel shall conduct an investigation and all such other proceedings as necessary and appropriate.

- (2) A complainant may request review of a decision by a Special Deputy Trial Counsel to close a complaint or inquiry. The Administrator shall refer such a request for review to a different Special Deputy Trial Counsel than was originally assigned to complainant's case. Upon receipt of a referral by the Administrator to perform a review of a closed disciplinary complaint, the Special Deputy Trial Counsel will determine whether to recommend to the Administrator that the complaint should be reopened for investigation.
- (e) The Administrator and Special Deputy Trial Counsel:
- (1) Shall have all the powers and duties of the Chief Trial Counsel and shall act entirely in her or his place with regard to an inquiry or complaint and any resulting investigation or prosecution.
 - (2) Must be active ~~members~~ attorneys in good standing of the State Bar of California, but may not be employees of the State Bar, members of the Board of Trustees, or Judges Pro Tempore of the State Bar Court.
 - (3) May receive compensation for services and reimbursement of reasonable expenses for investigative, administrative and legal support.
 - (4) Shall comply with the written or other established policies of the State Bar of California and the Office of the Chief Trial Counsel, except to the extent that compliance would be inconsistent with the purposes of this rule.
 - (5) May be removed by the Chairperson of the Regulation and Discipline Committee or designee only for good cause, including any condition that impedes the timely performance of their duties.
- (f) The State Bar's Office of General Counsel may be designated by the Chairperson of the Board's Regulation and Discipline Committee to monitor all referrals to the Administrator and Special Deputy Trial Counsel in a manner that maintains the required impartiality and confidentiality. The State Bar's Office of General Counsel may also be designated by the Chairperson of the Board's Regulation and Discipline Committee to remove the Administrator or Special Deputy Trial Counsel as provided in section (e)(5) of this rule.
- (g) Upon the request of the Chairperson of the Board's Regulation and Discipline Committee, but no less than twice a year, the Administrator and/or the Office of General Counsel shall submit a full report to the Committee in the appropriate session of its meeting about the processing of all inquiries and complaints in a manner that maintains the necessary impartiality and confidentiality of the matters under review pursuant to this rule.

Eff. January 1, 1996. Revised September 1, 2006. Revised July 22, 2016.
Source: TRP 106, 212.

CHAPTER 3. CONFIDENTIALITY

STATE BAR NOTE

Formerly TRP Division III General Provisions, Chapter 3 Confidentiality of State Bar Court Records and Proceedings. With respect to proceedings pending in the State Bar Court, TRP 220 Confidentiality of Investigations and Formal Proceedings, TRP 221 Confidentiality of Information, TRP 225 Public Hearings, TRP 226 Information Available to ~~Member~~ Attorney, TRP 228 State Bar Court Access to Disciplinary Records During Consideration of Client Security Fund Application, TRP 229 Responses to Inquiries are superseded by Title II. With respect to State Bar Court files and records in proceedings pending in the State Bar Court, TRP 223 Records, is superseded by Title II. TRP 222 Advising Complainant is superseded by Title III rule 2403 Complainant.

Rule 2301. RECORDS

Except as otherwise provided by law or by these rules, the files and records of the Office of the Chief Trial Counsel are confidential.

Eff. January 1, 1996.

Source: TRP 223 (substantially revised).

Rule 2302. DISCLOSURE OF INFORMATION

- (a) Except as otherwise provided by law or these rules, information concerning inquiries, complaints or investigations is confidential, and shall not be shared outside of the State Bar Office of the Chief Trial Counsel. There is no duty of confidentiality with respect to ~~non-members~~ nonattorneys; however, the Chief Trial Counsel or designee may assert confidentiality with respect to inquiries, complaints, or investigations regarding ~~non-members~~ nonattorneys, if, in the discretion of the Chief Trial Counsel or designee, that is necessary to protect members of the public.
- (b) ~~A member~~ An attorney whose conduct is the subject of an inquiry, complaint or investigation may waive confidentiality.
- (c) Notwithstanding the provisions of paragraph (b), the Chief Trial Counsel or designee, may decline to waive confidentiality regarding an inquiry, complaint or investigation, if it is determined that an ongoing investigation may be substantially prejudiced by a public disclosure before the filing of a notice of disciplinary charges.
- (d) (1) Notwithstanding paragraph (a) and without violating the duty of confidentiality or waiving confidentiality for other purposes, the Chief Trial Counsel or designee, after private notice to the ~~member~~ attorney, may disclose

documents or information concerning a complaint(s) or investigation(s) for the protection of the public when the necessity for disclosing information outweighs the necessity for preserving confidentiality, including but not limited to the following circumstances:

- (A) ~~A member~~ An attorney has caused, or is likely to cause, harm to client(s), the public, or to the administration of justice, such that the public or specific individuals should be advised of the nature of the allegations. The following additional factors shall be considered in making this determination:
 - (i) The maintenance of public confidence in the discipline system's exercise of self-regulation;
 - (ii) The ~~member's~~ attorney's current ~~membership~~ license status;
 - (iii) The record of prior discipline of the ~~member~~ attorney;
 - (iv) The potential for the imposition of a substantial disciplinary sanction;
 - (v) The existence of any other public matters;
 - (vi) The status of the complaint or investigation;
 - (vii) The waiver of confidentiality by the ~~member~~ attorney;
 - (viii) The gravity of the underlying allegations; and
 - (ix) The ~~member's~~ attorney's cooperation with the State Bar.
 - (B) ~~A member~~ An attorney has committed criminal acts or is under investigation by law enforcement authorities;
 - (C) ~~A member~~ An attorney is under investigation by a regulatory or licensing agency, or has committed acts or made omissions which may reasonably result in investigation by a regulatory or licensing agency; or
 - (D) The ~~member~~ attorney is the subject of multiple complaints and the Office of the Chief Trial Counsel has determined not to pursue all of the complaints. The Office of the Chief Trial Counsel may inform complainants whose allegations have not been pursued of the status of the other investigations or the manner in which the other complaint(s) against the ~~member~~ attorney have been resolved, e. g., by directional letter, warning letter, admonition, agreement in lieu of discipline, or private reproof.
- (2) If the Chief Trial Counsel, for any reason, declines to exercise the authority provided by paragraph (d)(1), or disqualifies himself or herself from acting under paragraph (d)(1), he or she shall appoint a designee to act in his or her place.

- (3) The Chief Trial Counsel or designee, may define the scope of information disclosed and may limit the dissemination of information pursuant to paragraph (d)(1), above, to specified individuals or entities.
 - (4) Except as otherwise provided by law or these rules, if the Chief Trial Counsel or designee discloses documents or information pursuant to paragraph (d)(1) through (d)(3), the Chief Trial Counsel or designee may issue, if appropriate, one or more public announcements and may disclose information concerning a complaint(s) or investigation(s) involving ~~a member(s)~~ an attorney(s), which includes a statement of the status or disposition of the complaint(s) or investigation(s); clarifying the procedures involved; and defending the right of the ~~member(s)~~ attorney(s) to a fair hearing on the allegations of misconduct.
 - (5) The Chief Trial Counsel or designee may issue, if appropriate, one or more public announcements and may disclose information concerning a complaint(s) or investigation(s) involving a ~~non-member(s)~~ nonattorney(s) when such disclosure would serve to protect the public, including, but not limited to, protecting the public from an individual(s) who has engaged in the unauthorized practice of law.
- (e) Notwithstanding paragraph (a), without violating the duty of confidentiality or waiving confidentiality for other purposes, the Chief Trial Counsel or designee, in the exercise of discretion, may disclose documents and information concerning disciplinary inquiries, complaints and investigations to the following individuals or entities:
- (1) Any Special Deputy Trial Counsel or any employee of the State Bar. Any Special Deputy Trial Counsel or State Bar employee receiving confidential documents or information pursuant to this paragraph (e)(1) shall not disclose such documents or information to any other person or entity without the authorization of the Chief Trial Counsel or designee;
 - (2) Any person or entity providing services to the State Bar. Prior to receiving such confidential information or documents, any such person or entity must execute a confidentiality agreement or non-disclosure agreement with the State Bar, or a contract containing a confidentiality or non-disclosure clause;
 - (3) Members of the Judicial Nominees Evaluation Commission or Review Committee as to matters concerning nominees in any jurisdiction;
 - (4) Witnesses or potential witnesses in conjunction with an inquiry, complaint, investigation, or proceeding;
 - (5) Other governmental agencies responsible for the enforcement of civil or criminal laws, including but not limited to information within the definitions set forth in Business and Professions Code sections 6043.5 and 6044.5;

- (6) Agencies and other jurisdictions responsible for professional licensing;
 - (7) The complainant or lawful designee;
 - (8) The ~~member(s)~~ attorney(s) who is (are) the subject of the inquiry, complaint or investigation or their counsel of record, if any;
 - (9) Judges of the State Bar Court;
 - (10) Any person or entity to the extent that such disclosure is authorized by Business and Professions Code sections 6094.5(b), 6086.14 or other statutory provision or any other law; or
 - (11) Third-party recipients of subpoenas duces tecum, when service of a narrowly tailored supporting declaration is necessary to inform subpoenaed party why his or her private information is being subpoenaed.
- (f) In exercising his or her discretion pursuant to paragraph (e), the Chief Trial Counsel or designee shall consider the purposes for which disclosure is sought, the State Bar's policy of promoting information sharing within the State Bar where necessary to advance the State Bar's goals and objectives, the need to maintain the confidentiality of the documents or information at issue, and the risk that the disclosure sought would lead to an improper or unlawful disclosure beyond the intended recipient(s) of the documents or information at issue. To protect the confidentiality of particular documents or information, to prevent the disclosure of information or documents beyond the intended recipient(s), or to prevent the use of disclosed information for improper purposes, the Chief Trial Counsel or designee may impose limitations or conditions on any disclosure pursuant to paragraph (e), including but not limited to: redaction; anonymization; limits on further disclosure to other persons or entities; confidentiality or non-disclosure agreements; and limits on the use of disclosed documents or information.
- (g) This rule is not intended to conflict with and shall not be construed as conflicting with Business and Professions Code section 6079.5(a), which provides that the Chief Trial Counsel "shall report to and serve under the Regulation, Admissions, and Discipline Oversight Committee of the Board of Trustees of the State Bar or its successor committee on attorney discipline, and shall not serve under the direction of the chief executive officer."

Eff. January 1, 1996. Revised November 18, 2016; May 18, 2018; November 16, 2018.
Source: TRP 220, 221, 224, 227.

CHAPTER 4. INVESTIGATIONS

STATE BAR NOTE

Formerly TRP Division IV Provisions Applicable to Various Proceedings, Chapter 1 Investigations. TRP 508 Authority to Terminate Matter is superseded by Title III, rule

2601 Closure of Inquiries, Complaints and Investigations. TRP 509 Determination as to Reasonable Cause is superseded by Title III, rule 2604 Filing Notices of Disciplinary Charges. TRP 510 Issuance of Notice to Show Cause is superseded by Title III, rule 2604 Filing Notices of Disciplinary Charges. TRP 511 Termination Without Opening Formal Proceeding is superseded by Title III, rules 2602 Disposition by Admonition and 2601 Closure of Inquiries, Complaints and Investigations all contained in Chapter 6 Disposition of Inquiries, Complaints, and Investigations, below.

Rule 2401. PURPOSE OF INVESTIGATION

The purpose of an investigation is to determine whether there is reasonable cause to believe that ~~a member~~ an attorney of the State Bar has violated a provision of the State Bar Act or the Rules of Professional Conduct and if there is sufficient evidence to support the allegations of misconduct.

Eff. January 1, 1996.

Source: TRP 502

Rule 2402. INITIATION OF INQUIRY OR INVESTIGATION

The State Bar may open an inquiry or investigation on its own accord or upon receipt of a communication concerning the conduct of ~~a member~~ an attorney of the State Bar.

Eff. January 1, 1996.

Source: TRP 503.

Rule 2403. COMPLAINT

The Complainant is entitled to receive relevant information pursuant to the provisions of the State Bar Act or the Rules of Procedure of the State Bar of California. In matters where communications from more than one person concern the same or substantially the same underlying conduct of the ~~member~~ attorney, there may be more than one complainant. The complainant may be, but is not limited to:

- (a) a current or former client;
- (b) one complaining on behalf of a current or former client;
- (c) one owed or was owed a fiduciary duty and an alleged breach of the fiduciary duty is or should be a subject of the investigation;
- (d) member of the judiciary or legal professions who alleged misconduct by the ~~member~~ attorney which is or should be the subject of an investigation;
- (e) a person who has significant new information about an alleged ethical violation committed by the ~~member~~ attorney affecting the professions, the administration of justice, or the public.

Eff. January 1, 1996.
Source: New.

Rule 2404. COMMUNICATIONS CONCERNING THE CONDUCT OF MEMBERS ATTORNEYS

Communications concerning the conduct of ~~a member~~ an attorney of the State Bar may be made to the Office of the Chief Trial Counsel at 845 S. Figueroa Street, Los Angeles, CA 90017-2515. Complainants may be required to present appropriate information on forms supplied by the Office of the Chief Trial Counsel.

Eff. January 1, 1996.
Source: TRP 504 (substantially revised).

Rule 2406. EFFECT OF COMMUNICATION TO THE STATE BAR

A client or former client who complains against ~~a member~~ an attorney thereby waives the attorney-client privilege and any other applicable privilege, as between the complainant and the ~~member~~ attorney, to the extent necessary for the investigation and prosecution of the allegations.

Eff. January 1, 1996.

Rule 2407. CLOSURE FOR FAILURE TO PROVIDE ASSISTANCE

The Office of the Chief Trial Counsel may, in its discretion, close an inquiry, investigation or complaint if the complainant fails to comply with the State Bar's reasonable requests for assistance, information, or documentation.

Eff. January 1, 1996.
Source: TRP 506 (substantially revised).

Rule 2408. EFFECT OF RESTITUTION OR SETTLEMENT; UNWILLINGNESS OF COMPLAINANT TO PROCEED

The Office of the Chief Trial Counsel may continue to investigate and, in its discretion, may prosecute a complaint even though the complainant has asked that the complaint be withdrawn, has failed to properly cooperate with the State Bar, has compromised his or her claim or has received restitution. In exercising its discretion under this rule, the Office of the Chief Trial Counsel shall consider all relevant factors including but not limited to:

- (a) whether prosecution of the matter is necessary for the protection of the public;
- (b) whether prosecution of the matter is necessary to assure the public's confidence in the ability of the State Bar to regulate its ~~members~~ attorneys;

- (c) whether prosecution of the matter is likely to result in a significant level of discipline;
- (d) whether the respondent is or has been the subject of other disciplinary investigations or proceedings;
- (e) whether it appears that the ~~member~~ attorney has unduly influenced the complainant's decision to request that the investigation be terminated; and/or
- (f) whether the respondent has acknowledged wrongdoing and has fully compensated the victim of the misconduct.

Eff. January 1, 1996.

Source: TRP 507 (substantially revised).

Rule 2409. MEMBER'S ATTORNEY'S RESPONSE TO ALLEGATIONS

- (a) Prior to the filing of a Notice of Disciplinary Charges, the Office of the Chief Trial Counsel shall notify the ~~member~~ attorney in writing of the allegations forming the basis for the complaint or investigation and shall provide the ~~member~~ attorney with a period of not less than two weeks within which to submit a written explanation. The Office of Chief Trial Counsel may transmit the letter of inquiry by: (1) posting the letter of inquiry to the ~~member's~~ attorney's "My State Bar Profile" on the State Bar's website and (2) sending an e-mail notification to the address the ~~member~~ attorney maintains pursuant to California Rule of Court rule 9.9(a)(2). The e-mail notification must state that a letter of inquiry from the Office of Chief Trial Counsel has been posted on the ~~member's~~ attorney's "My State Bar Profile" and remind the ~~member~~ attorney of his or her duty to cooperate and participate in the State Bar's disciplinary investigation. If the ~~member~~ attorney has not provided the State Bar with an e-mail address pursuant to rule 9.9(a)(2), the Office of Chief Trial Counsel shall transmit the letter of inquiry by personal delivery or by regular mail.

An extension of time for submission of the ~~member's~~ attorney's written explanation shall be granted only upon written request to the Office of the Chief Trial Counsel and for good cause shown as to the specific constraints on the ~~member's~~ attorney's practice which are claimed to necessitate the additional time. This rule does not prohibit the Office of the Chief Trial Counsel from contacting a ~~member~~ an attorney by telephone for purposes of resolution of minor matters or investigation.

- (b) In response to the Office of the Chief Trial Counsel's written notification pursuant to paragraph (a), the ~~member~~ attorney may provide a written response claiming any applicable constitutional or statutory privilege; however, the availability of an applicable constitutional or statutory privilege shall not excuse the ~~member~~ attorney from submitting a written response to the Office of the Chief Trial Counsel to the extent necessary to identify and exercise the claimed privilege.

Eff. January 1, 1996. Revised: January 1, 2000; November 4, 2011; May 18, 2018.
Source: TRP 508 (substantially revised).

Rule 2410. COMMUNICATIONS WITH CURRENT CLIENTS OF A MEMBER AN ATTORNEY

- (a) The staff of the Office of the Chief Trial Counsel may interview the current clients of ~~a member~~ an attorney who is under investigation or is the subject of a disciplinary proceeding in the following limited circumstances:
- (1) with the consent of the ~~member~~ attorney or counsel;
 - (2) when the client has complained against the ~~member~~ attorney or has initiated contact with the State Bar; or
 - (3) to determine whether he or she is a current client of the ~~member~~ attorney.
The contact shall cease if it is determined that the person is a current client.
- (b) The Chief Trial Counsel or designee, may, in his or her discretion, authorize interviews of current clients of ~~a member~~ an attorney upon a showing of good cause in writing.

Eff. January 1, 1996.
Source: Board of Governors Resolution of August 29, 1987 (substantially revised).

CHAPTER 5. SUBPOENAS AND DEPOSITIONS

STATE BAR NOTE

Formerly TRP Division III General Provisions, Chapter 9 Subpoenas and Discovery. TRP 304 Specific Rules Applicable to ~~Member's~~ Attorney's Non-Trust Fund Financial Records or for ~~Non-Member's~~ Nonattorney's Financial Records, TRP 305 Issuance of Subpoena, TRP 306 Service on Customer, TRP 307 Motion to Quash, TRP 308 Hearing on Motion to Quash, TRP 309 Review of Decision on Motion to Quash, TRP 310 Rules Applicable to Subpoenas Other than for the Purpose of Obtaining Financial Records, TRP 311 Service, TRP 312 Motion to Quash, TRP 313 Hearing on Motion to Quash, TRP 314 Review of Decision of Referee or Hearing Panel on Motion to Quash, TRP 315 Discovery in Formal Proceedings, TRP 316 Time Period for Discovery, TRP 317 Conditions Precedent to Formal Discovery, TRP 318 Depositions, TRP 319 Interrogatories and Requests for Admissions, TRP 321 Sanctions; Admissions of Facts not Denied in Request for Admissions, TRP 322 Contempt Proceeding, TRP 323 Other Depositions; Authority, TRP 324 Discovery Review, TRP 325 Protective Orders are superseded by Title II.

Rule 2501. FORMS FOR SUBPOENAS

The Office of the Chief Trial Counsel may promulgate forms for the subpoenas it issues.

Eff. January 1, 1996.

Source: New.

Rule 2502. INVESTIGATION DEPOSITIONS

In the course of an investigation, pursuant to Business and Professions Code section 6049, subdivision (b), the Office of the Chief Trial Counsel may compel by subpoena the appearance of a witness at a deposition. The deposition shall be conducted in accordance with Code of Civil Procedure section 2025, subdivision (c) through subdivision (u), inclusive. The Office of the Chief Trial Counsel shall serve a copy of the notice of deposition upon each ~~member~~ attorney whose conduct is being investigated. Such ~~members~~ attorneys shall have the right to appear and participate at the deposition and to seek relief from the State Bar Court pursuant to Code of Civil Procedure section 2025 subdivision (i)(1) through subdivision (5), inclusive, and subdivision (i)(8) through (i)(14), inclusive.

Eff. January 1, 1996.

Source: New (but see TRP 323; Bus. & Prof. Code § 6049(b)).

Rule 2503. TRUST ACCOUNT FINANCIAL RECORDS

- (a) This rule applies to investigation subpoenas issued by the State Bar directed to financial institutions requiring production of trust account financial records of a ~~member~~ an attorney, in compliance with Business and Professions Code sections 6049 and 6069(a), and applies before or after the commencement of a State Bar Court proceeding.
- (b) A subpoena for trust account financial records shall describe the requested records with particularity and shall be supported by a declaration showing the following:
 - (1) that there is reasonable cause to believe that the financial records sought pertain to trust funds which the ~~member~~ attorney must maintain in accordance with the Rules of Professional Conduct; and
 - (2) that the records sought are consistent with the scope and requirements of the matter under investigation; provided, however, that the Office of the Chief Trial Counsel shall have discretion to make this determination.

Declarations shall be confidential and need not be disclosed to the State Bar Court, the ~~member~~ attorney, the financial institution, or other interested parties at any time.

- (c) The Office of the Chief Trial Counsel shall notify the ~~member~~ attorney in writing within thirty (30) days after receiving trust account financial records from a financial

institution in response to a subpoena issued pursuant to this rule. The notice shall be mailed to ~~member's~~ attorney's address furnished pursuant to Business and Professions Code section 6002.1 or to his or her counsel, and shall include:

- (1) a description with particularity of the financial records actually received; and
 - (2) notice that the ~~member~~ attorney may submit a written request for a statement of reasons for the State Bar's examination of the ~~member's~~ attorney's trust account financial records within fifteen (15) days of the date of mailing of the notice.
- (d) Upon timely and written request, the Office of the Chief Trial Counsel shall provide the ~~member~~ attorney with a statement of the reasons for the State Bar's examination of the ~~member's~~ attorney's trust fund financial records.

Eff. January 1, 1996.

Source: Bus. & Prof. Code § 6069(a); TRP 301-303.

CHAPTER 6. DISPOSITION OF INQUIRIES, COMPLAINTS AND INVESTIGATIONS

STATE BAR NOTE

Formerly TRP Division IV Provisions Applicable to Various Proceedings, Chapter 1 Investigations. See also Title III, Division II Chief Trial Counsel, Chapter 4 Investigations, above.

Rule 2601. CLOSURE OF INQUIRIES, COMPLAINTS AND INVESTIGATIONS

The Office of the Chief Trial Counsel may, in its discretion, close an inquiry, complaint or investigation. The inquiry, complaint or investigation may also be closed with the issuance of a warning letter or a directional letter or by any other appropriate manner not constituting discipline.

Eff. January 1, 1996.

Source: New (but see TRP 508).

Rule 2602. DISPOSITION BY ADMONITION

- (a) The Office of the Chief Trial Counsel may, in its discretion, dispose of any matter before it by an admonition to the ~~member~~ attorney.
- (b) The fact of the admonition shall be communicated to the complainant, if any, but otherwise shall not be public. The Office of the Chief Trial Counsel shall notify the complainant of its action. The admonition does not constitute imposition of discipline upon the ~~member~~ attorney. If within two years after the date of the admonition letter, a State Bar Court proceeding is filed against the ~~member~~ attorney based upon other alleged misconduct, the matter terminated by

admonition may be reopened. All applicable time limitations shall be tolled during the period between the issuance of the admonition and the filing of the notice of disciplinary charges.

- (c) Upon written request of the ~~member~~ attorney, mailed within fifteen (15) days after service of the admonition letter, the admonition shall be set aside and the investigation may be resumed.

Eff. January 1, 1996.

Source: TRP 415 (substantially revised); see also Title II, Rule 264.

Rule 2603. REOPENING INQUIRIES, INVESTIGATIONS, AND COMPLAINTS

- (a) The Office of the Chief Trial Counsel may, subject to Rule 51 [Period of Limitations], reopen an inquiry, investigation, or complaint in the following limited circumstances:
 - (1) if there is new material evidence; or
 - (2) if the Chief Trial Counsel or designee, in his or her discretion, determines that there is good cause.
- (b) Notwithstanding the Office of the Chief Trial Counsel's exclusive jurisdiction over disciplinary matters as expressed in Rule 2101, the Board of Trustees of the State Bar delegates to the Office of General Counsel the authority to review closures of inquiries, investigations and complaints upon request by complainants. Upon recommendation by the Office of General Counsel following review of a request by a complainant to review closure of an inquiry, investigation or complaint, the Office of the Chief Trial Counsel may reopen the case for investigation.

Eff. January 1, 1996. Revised: May 13, 2016.

Source: TRP 511 (substantially revised).

Rule 2604. FILING NOTICE OF DISCIPLINARY CHARGES

The Office of the Chief Trial Counsel may file a notice of disciplinary charges if it finds in its discretion: (1) there is reasonable cause to believe that ~~a member~~ an attorney has committed a violation of the State Bar Act or the Rules of Professional Conduct and (2) the ~~member~~ attorney has received a fair, adequate and reasonable opportunity to deny or explain the matters which are the subject of the notice of disciplinary charges.

Eff. January 1, 1996. Revised: January 1, 2000.

Source: TRP 509, 510 (substantially revised).

DIVISION III. OFFICE OF PROBATION

Rule 2701. Office of Probation

The Office of Probation, including probation monitor referees, shall supervise ~~members~~ attorneys placed on probation or conditions attached to reprobals by disciplinary orders

of the Supreme Court or the State Bar Court or pursuant to the terms of agreements in lieu of disciplinary prosecution.

Eff. January 1, 1996. Revised: January 1, 2004.

Source: TRP 605 (substantially revised).

Rule 2702. DUTIES OF PROBATION MONITOR REFEREES

It shall be the duty of a probation monitor referee to:

- (a) Review the applicable disciplinary order or agreement in lieu of disciplinary prosecution and any conditions of probation or reprobation applicable to the ~~member~~ attorney;
- (b) Promptly review with the ~~member~~ attorney the conditions of probation or reprobation and establish a manner and schedule of compliance and reports of compliance to the probation monitor;
- (c) Report to the Office of Probation, 845 S. Figueroa Street, Los Angeles, CA 90017-2515, within forty-five (45) days of receipt of the conditions of probation or reprobation, upon the manner and schedule of compliance, and thereafter on a quarterly basis upon the compliance of the ~~member~~ attorney;
- (d) Determine from time to time, after assessment of the relevant facts, the extent and degree of the ~~member's~~ attorney's compliance with the conditions of probation or reprobation; and
- (e) After assessment of the relevant facts and making a determination that ~~a member~~ an attorney has failed to comply with the conditions of probation or reprobation or agreement in lieu of disciplinary prosecution, report such failure to the Probation Unit.

Eff. January 1, 1996. Revised: January 1, 2004.

Source: TRP 614.5 (substantially revised).

Rule 2703. CONFIDENTIALITY OF PROBATION FILES

Except as otherwise provided by law or by these rules, the files and records of the Office of Probation are confidential.

Eff. Revised: January 1, 2004.

Source: New

DIVISION IV. DISQUALIFICATION AND MCLE CREDIT

STATE BAR NOTE

Formerly TRP Division III General Provisions, Chapter 4 Disqualification.

CHAPTER 1. DISQUALIFICATION

STATE BAR NOTE

TRP 230 Referees, is superseded by Title II.

Rule 3101. DISQUALIFICATION OF CERTAIN PERSONS

- (a) Members of the Board of Trustees, the Committee of Bar Examiners, judges, including pro tem judges, of the State Bar Court, and employees of the State Bar shall not:
 - (1) during their term of office or employment, represent a party in a matter which involves the regulatory jurisdiction of the State Bar and in which the party's interests are adverse to or in conflict with the regulatory interests of the State Bar;
 - (2) following expiration of their term of office or termination of employment, represent a party in a matter which involves the regulatory jurisdiction of the State Bar and in which they personally and materially participated during their State Bar service; or which involves material confidential information of the State Bar to which they had access as the result of their State Bar service;
 - (3) where subsection (a)(2) above does not apply, for a period of six (6) months following expiration of their term of office or termination of employment, represent a party in a matter which involves the regulatory jurisdiction of the State Bar and in which they had supervisory responsibility during their State Bar service;
- (b) Members and/or other appointees of State Bar committees, sections, and/or entities, other than those identified in Section (a) above, shall not, during or after their term of office, represent a party in a matter which involves the regulatory jurisdiction of the State Bar and which involves material confidential information of the State Bar to which they had access as the result of their State Bar service.
- (c) The Board of Trustees, or its designee, may waive the requirements of this rule, for good cause.
- (d) Nothing in this rule eliminates any disqualification under the statutory or decisional law, nor any disqualification under the Rules of Professional Conduct, or the Code of Judicial Conduct.

Eff. September 1, 1989. Renumbered: January 1, 1996. Revised: March 2, 1996.

Corrected: July 1, 1997. Source: TRP 231.

CHAPTER 2. MINIMUM CONTINUING LEGAL EDUCATION CREDIT

Rule 3201. MINIMUM CONTINUING EDUCATION CREDIT

~~A member~~ An attorney may receive Minimum Continuing Legal Education Credit upon the satisfactory completion of State Bar Ethics School, or any other remedial education courses approved by the Office of the Chief Trial Counsel, unless the ~~member's~~ attorney's attendance at such courses is required by a decision or order of the State Bar Court or Supreme Court.

Eff. August 26, 1995. Source: New.

DIVISION V. PROVISIONS APPLICABLE TO VARIOUS PROCEEDINGS

STATE BAR NOTE

Formerly TRP Division IV Provisions Applicable to Various Proceedings. Chapter 1B Audit of Books and Records of ~~Member~~ Attorney, TRP 530-534 and Chapter 7 Proceedings to Assume Jurisdiction Over Incapacitated Attorney's Law Practice, TRP 630 are deleted. Chapter 2 Formal Proceedings and Hearings, TRP 550-575, Chapter 3 Conviction Proceedings, TRP 601-603, Chapter 5 Public and Private Reprovals, TRP 615-618, Chapter 6 Rule 9.20 Proceedings, TRP 620-622, Chapter 8 Proceedings for Involuntary Transfer to or for Re-Transfer from Inactive Enrollment, TRP 640-649, Chapter 9 Resignation-Perpetuation of Testimony Proceedings, TRP 650-658, Chapter 10 Reinstatement Proceedings, TRP 660-669, Chapter 15 Proceedings re Involuntary Transfer to Inactive Status Upon a Finding that the Attorney's Conduct Poses a Substantial Threat of Harm to the Public or the Attorney's Clients, TRP 789-99, Chapter 15A Proceedings Re Involuntary Transfer to Inactive Status Upon a Finding that a ~~Member~~ an Attorney has not Complied with Section 6002.1, Business and Professions Code, and Cannot be Located after Reasonable Investigation, TRP 799.1, Chapter 15B Expedited Disciplinary Proceedings in Connection with an Involuntary Inactive Enrollment Pursuant to Business and Professions Code Section 6007(c), TRP 799.5-799.8, Chapter 16 Expedited Disciplinary Proceedings Following Discipline of a ~~Member~~ an Attorney by Another Jurisdiction, TRP 800-806, Chapter 17 Proceedings to Demonstrate Rehabilitation, Present Fitness and Learning and Ability in the Law Pursuant to Standard 1.4(c)(ii), TRP 810-826, Chapter 18 Moral Character Proceedings, TRP 830-836 are superseded by Title II. Chapter 11 Client Security Fund Proceedings, TRP 670-688, was moved to a separate publication entitled "Rules of Procedure, Client Security Fund Proceedings" effective January 1992. Chapter 12 Fee Arbitration Proceedings, TRP 690-732, was moved to a separate publication entitled "Rules of Procedure for Fee Arbitrations and the Enforcement of Awards by the State Bar of California" effective January 1991. See also, Fee Arbitration Award Enforcement Proceedings, Rules 700-711 of Title II.

CHAPTER 1. DISCIPLINE AUDIT PANEL

STATE BAR NOTE

Effective January 1, 2000, Business and Professions Code section 6086.11 was repealed by operation of law. As a result, the Discipline Audit Panel no longer exists and former rules 4101 through 4103, relating to the functions of the Discipline Audit Panel and its predecessor, the Complainants' Grievance Panel, have also been repealed by operation of law.

CHAPTER 2. LAWYER REFERRAL SERVICE PROCEEDINGS

STATE BAR NOTE

Effective January 1, 1997, the Supreme Court approved amendments to the Rules and Regulations Pertaining to Lawyer Referral Services. As a result of those amendments, rules 4201 through 4207 of the Rules of Procedure have been repealed.

CHAPTER 3. LEGAL SERVICES TRUST FUND PROCEEDINGS

STATE BAR NOTE

Formerly TRP Division IV Provisions Applicable to Various Proceedings, Chapter 14 Legal Trust Fund Proceedings.

Rule 4301. NATURE OF PROCEEDINGS

These rules apply to hearings required by Business and Professions Code section 6224 and by the Rules Regulating Interest-Bearing Trust Fund Accounts For the Provision of Legal Services to Indigent Persons (hereinafter "Trust Fund Rules").

Eff. September 1, 1989. Revised: April 17, 1993. Revised and renumbered: January 1, 1996. Source: TRP 775.

Rule 4302. INITIATION OF PROCEEDINGS

Proceedings under these rules shall be initiated by the filing with the Clerk of the State Bar Court of a written request for hearing in accordance with the Trust Fund Rules. The applicant or recipient shall have thirty (30) days from service of a notice of denial or termination of funding to file the request for hearing with the Clerk of the State Bar Court. The request for hearing shall be accompanied by a copy of the notice of denial or termination and shall contain an address to which all further notices to the applicant or recipient in relation to the particular proceeding may be sent. A copy of the request for hearing shall also be served by the applicant or recipient on the Legal Services Trust

Fund Commission (hereinafter "Commission") at the San Francisco office of the State Bar.

Eff. September. 1, 1989. Revised: April 17, 1993. Revised and renumbered: January 1, 1996.
Source: TRP 776.

Rule 4303. APPEARANCE BY COUNSEL

In proceedings conducted pursuant to these rules, the Commission established pursuant to rule 4 of the Trust Fund Rules and an applicant or recipient shall be represented by their respective counsel. The Commission's counsel shall be selected as determined by the Board of Trustees.

Eff. September 1, 1989. Revised: April 17, 1993. Renumbered: January 1, 1996.
Source: TRP 777, unchanged.

Rule 4304. APPLICABLE RULES

- (a) Rules which by their terms apply only to other specific proceedings shall not apply in Legal Services Trust Fund proceedings.
- (b) All other rules shall apply as nearly as may be practicable.
- (c) In such applicable rules, reference to "~~member~~" "attorney" shall apply to an applicant or recipient, and references to the State Bar, "examiner", or "Office of Trials" or "Chief Trial Counsel" shall refer to the Commission and/or its counsel, as appropriate.

Eff. September 1, 1989. Revised: April 17, 1993. Revised and renumbered: January 1, 1996.
Source: TRP 778, substantially revised.

Chapter 4. RULES FOR ADMINISTRATION OF THE STATE BAR ALTERNATIVE DISPUTE RESOLUTION CLIENT-ATTORNEY MEDIATION PROGRAM (ADRCAMP)

STATE BAR NOTE

As originally adopted by the Board of Trustees of the State Bar of California, the following rules were under TRP Division IV Provisions Applicable to Various Proceedings, Chapter 19 and were numbered 1.0 through 7.0. These rules have now been placed in the revised Title III Division IV Provisions Applicable to Various Proceedings, Chapter 4 and renumbered accordingly.

Rule 4401. AUTHORITY

The Alternative Dispute Resolution Client-Attorney Mediation (ADRCAMP) Program is established pursuant to Business and Professions Code § 6086.14.

Eff. May 14, 1994. Renumbered: January 1, 1996.
Source: TRP 840.

Rule 4402. PURPOSE OF PROGRAM

The ADRCAMP is designed to help resolve complaints against attorneys which do not warrant the institution of formal investigation or prosecution. It also will educate the participants about their respective responsibilities and obligations.

ADRCAMP is intended to be an effective and inexpensive alternative to formal attorney discipline utilizing early identification and intervention in dispute resolution.

Eff. May 14, 1994. Renumbered: January 1, 1996.
Source: TRP 841.

Rule 4403. STANDARDS TO BE CONSIDERED FOR ADRCAMP REFERRAL

- (a) The Office of the Chief Trial Counsel, in the exercise of its prosecutorial discretion, may require the participation of an attorney in the ADRCAMP after considering, but not limited to, the following factors:
- (1) Attorney's prior discipline record including, but not limited to, any record of public discipline or informal action including Agreements in Lieu of Discipline, Admonitions, Warning Letters, Directional Letters, and reportable actions.
 - (2) The existence of open inquiries/investigations involving the same conduct.
 - (3) Disciplinary proceedings pending in the State Bar Court.
 - (4) Client willingness to participate in the program.
 - (5) Availability of ADRCAMP in county where attorney maintains principal place of practice or performed significant legal services.
 - (6) Prior efforts to resolve the dispute.
- (b) The Office of the Chief Trial Counsel shall select complaint areas by allegation type, area of the law, or fact scenario which may be considered for ADRCAMP referral.

Eff. May 14, 1994. Renumbered: January 1, 1996.
Source: TRP 842, unchanged.

Rule 4404. Guidelines for Referral to ADRCAMP

The Office of the Chief Trial Counsel shall adopt internal procedures and guidelines for appropriate referral to ADRCAMP entity of telephone and written communications received.

Eff. May 14, 1994. Renumbered: January 1, 1996.
Source: TRP 843.

MINIMUM STANDARDS FOR THE MEDIATION OF CLIENT-ATTORNEY DISPUTES

(Adopted by the Board of Governors May 14, 1994)

PURPOSE

To establish, in partnership with local bar associations, a statewide program for mediation of client/lawyer disputes which do not warrant the institution of formal investigation or prosecution. The pilot project shall include mandatory mediations referred by the Office of the Chief Trial Counsel under Business and Professions Code Section 6086.14 and voluntary mediation requests made directly to the local bar by either the lawyer or client, if both the lawyer and client agree to mediate.

Participation in the pilot program shall be limited to no more than six local bar associations for the purpose of mediating mandatory referrals from the Office of the Chief Trial Counsel. An unlimited number of bar associations may participate in the pilot program for the purpose of mediating voluntary requests from the lawyer and client. Any local bar association participating in the pilot program must have its rules of procedure, and any subsequent amendments, approved by the Board of Trustees of the State Bar.

MINIMUM STANDARDS

Local bar association rules of procedure shall provide for:

1. A fair, speedy and impartial mediation procedure suitable to the circumstances;
2. Adequate training for mediators which includes classrooms and practical training with technical assistance provided by the State Bar;
3. Mediation of both mandatory and voluntary matters if the local bar is one of the associations handling mandatory meditations referred by the Office of the Chief Trial Counsel;
4. The maintenance of statistics which show:
 - (a) The number of requests received;
 - (b) The nature of the disputes;
 - (c) Whether the request was voluntary or mandatory;
 - (d) If the request was voluntary, whether it was made by the client or attorney;
 - (e) The disposition of each request.
5. An appropriate procedure for parties to challenge mediators for cause;
6. An appropriate procedure for a mediator to disclose any possible conflict of interest;
7. A rule setting forth jurisdiction requirements for accepting matters for mediation (e.g. lawyer practices in the county and/or services were performed in the county);
8. A procedure for preserving the confidentiality afforded by Evidence Code Section 1152.5 and Business and Professions Code Section 6086. 1(b);

9. A procedure which complies with requirements developed by the Office of the Chief Trial Counsel for transmitting the results of mandatory mediation matters to that Office;
10. A procedure covering what action, if any, will be taken in those instances where information regarding lawyer misconduct may be disclosed during a mediation; and
11. If the program elects to allow such meditations, a procedure for determining the permissible participation of non-clients having a material interest in the proceedings, such as fee guarantors, lien claimants or other interested persons, subject to the consent of the client and lawyer.

Other Considerations

1. The local bar association may use both lawyer and non-lawyer mediators.

Rule 4405. POST-MEDIATION PROCEDURES – ADRCAMP

After the mediation is concluded or if mediation is unsuccessful, the ADRCAMP entity shall transmit the record of the mediation to the Office of the Chief Trial Counsel. The record referred to in Business and Professions Code § 6086.14(c) shall consist of:

- (a) A Mediation Summary Report Form to be completed by the ADRCAMP entity;
- (b) A One Party Interview Form to be completed by the ADRCAMP entity if only one of the parties appears at the mediation.

Eff. May 14, 1994. Renumbered: January 1, 1996.
Source: TRP 844.

Rule 4406. POST-MEDIATION PROCEDURES – OFFICE OF THE CHIEF TRIAL COUNSEL

- (a) When mediation is concluded, the discipline matter shall be considered closed subject to reopening if the client advises the Office of the Chief Trial Counsel that the lawyer has failed to comply with the terms of the agreement.
- (b) If the attorney fails to participate in the mediation, if the parties fail to reach agreement, or if the attorney fails to perform pursuant to any agreement reached in the mediation, the Office of the Chief Trial Counsel may:
 - (1) Request the ADRCAMP to reschedule the matter for further mediation;
 - (2) Consider the matter for further investigation;
 - (3) Initiate disciplinary proceedings relating to the matter; or
 - (4) Close the inquiry.

- (c) Following the conclusion of the mediation process, the Office of the Chief Trial Counsel may contact the parties to ascertain what steps, if any, may be taken to improve the efficiency, fairness or responsiveness of the program.

Eff. May 14, 1994. Renumbered: January 1, 1996. Source: TRP 845.

Rule 4407. MATERIALS

The Office of the Chief Trial Counsel may publish forms, procedures and guidelines to be used in implementing this program.

Eff. May 14, 1994. Renumbered: January 1, 1996. Source: TRP 846.

TITLE IV. STANDARDS FOR ATTORNEY SANCTIONS FOR PROFESSIONAL MISCONDUCT

PART A. STANDARDS IN GENERAL

1.1 PURPOSES AND SCOPE OF STANDARDS

The Standards For Attorney Sanctions For Professional Misconduct (the “Standards”) are adopted by the Board of Trustees to set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances. The Standards help fulfill the primary purposes of discipline, which include:

- (a) protection of the public, the courts and the legal profession;
- (b) maintenance of the highest professional standards; and
- (c) preservation of public confidence in the legal profession.

Rehabilitation can also be an objective in determining the appropriate sanction in a particular case, so long as it is consistent with the primary purposes of discipline.

The Standards are based on the State Bar Act, the published opinions of the Review Department of the State Bar Court, and the longstanding decisions of the California Supreme Court, which maintains inherent and plenary authority over the practice of law in California. Although not binding, the Standards are afforded great weight by the Supreme Court and should be followed whenever possible. The Supreme Court will accept a disciplinary recommendation that is consistent with the Standards unless it has grave doubts about the propriety of the recommended sanction. If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.

The Standards do not apply to: non-disciplinary dispositions such as admonitions and agreements in lieu of discipline; resignations; involuntary inactive enrollments; interim suspensions after conviction of a crime; or suspensions for nonpayment of State Bar fees, failure to comply with child support orders, or tax delinquencies.

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014; July 1, 2015.

1.2 DEFINITIONS

- (a) “Member” is a member of the State Bar of California.
- (b) “Disbarment” is termination from the practice of law and from holding oneself out as entitled to practice law. Membership in the State Bar ceases and the member’s name is stricken from the roll of attorneys.
- (c) “Suspension” can include a period of actual suspension, stayed suspension, or both:
 - (1) “Actual suspension” is a disqualification from the practice of law and from holding oneself out as entitled to practice law, subject to probation and attached conditions. Actual suspension is generally for a period of thirty days, sixty days, ninety days, six months, one year, eighteen months, two years, three years, or until specific conditions are met. Actual suspension for two years or more requires proof, satisfactory to the State Bar Court, of rehabilitation, fitness to practice, and present learning and ability in the general law before a member may be relieved of the actual suspension. The State Bar Court can require this showing in other appropriate cases as well.
 - (2) “Stayed suspension” is a stay of all or part of a suspension. Stayed suspension is generally for a period of at least one year. A suspension can be stayed only if it is consistent with the primary purposes of discipline.
- (d) “Public Reproval” is a public censure or reprimand. A public reproval may include conditions.
- (e) “Private Reproval” is a censure or reprimand that is not a matter of public record unless imposed after the initiation of formal disciplinary proceedings. A private reproval may include conditions.
- (f) “Interim Remedies” are temporary restrictions imposed by the State Bar Court on a member’s ability to practice law. They are imposed in order to protect the public, the courts, and the legal profession until such time as the issues can be resolved through formal proceedings.
- (g) “Prior record of discipline” is a previous imposition or recommendation of discipline. It includes all charges, stipulations, findings and decisions (final or not) reflecting or recommending discipline, including from another jurisdiction. It can be discipline imposed for a violation of a term of probation or a violation of a Supreme Court order requiring compliance with rule 9.20 of the California Rules of Court.

- (h) “Aggravating circumstances” are factors surrounding a member’s misconduct that demonstrate that the primary purposes of discipline warrant a greater sanction than what is otherwise specified in a given Standard.
- (i) “Mitigating circumstances” are factors surrounding a member’s misconduct that demonstrate that the primary purposes of discipline warrant a more lenient sanction than what is otherwise specified in a given Standard.
- (j) “Probation” is a period of time under which a member is subject to State Bar supervision. Probation may include conditions that further the primary purposes of discipline.
- (k) “Conditions” are terms that a member must comply with as part of a disciplinary sanction. They relate to a member’s misconduct and the facts and circumstances surrounding the misconduct and serve the primary purposes of discipline.

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014; July 1, 2015.

1.3 DEGREES OF SANCTIONS

Subject to these Standards and the laws and rules governing the conduct of disciplinary proceedings, the following sanctions may be imposed upon a finding of misconduct:

- (a) disbarment;
- (b) actual suspension;
- (c) stayed suspension;
- (d) public reproof;
- (e) private reproof; or
- (f) any interim remedies or other final discipline authorized by the Business and Professions Code.

Eff. January 1, 1986. Revised: January 1, 2014; July 1, 2015.

1.4 CONDITIONS ATTACHED TO SANCTIONS

Conditions attached to a reproof or probation may require a member to:

- (a) make specific restitution or file a satisfaction of judgment;
- (b) take and pass a professional responsibility examination;

- (c) undergo treatment, at the member's expense, for medical, psychological, or psychiatric conditions or for problems related to alcohol or substance abuse;
- (d) complete, at the member's expense, educational or rehabilitative work regarding substantive law, ethics, or law office management;
- (e) complete probation, subject to reporting requirements;
- (f) give notice to affected parties, including clients, co-counsel, opposing counsel, courts or other tribunals; or
- (g) comply with any other conditions consistent with the primary purposes of discipline.

Eff. January 1, 1986. Revised: January 1, 2014; July 1, 2015.

1.5 AGGRAVATING CIRCUMSTANCES

The State Bar must establish aggravating circumstances by clear and convincing evidence. Aggravating circumstances may include:

- (a) a prior record of discipline;
- (b) multiple acts of wrongdoing;
- (c) a pattern of misconduct;
- (d) intentional misconduct, bad faith or dishonesty;
- (e) misrepresentation;
- (f) concealment;
- (g) overreaching;
- (h) uncharged violations of the Business and Professions Code or the Rules of Professional Conduct;
- (i) refusal or inability to account for entrusted funds or property;
- (j) significant harm to the client, the public, or the administration of justice;
- (k) indifference toward rectification or atonement for the consequences of the misconduct;
- (l) lack of candor and cooperation to the victims of the misconduct or to the State Bar during disciplinary investigations or proceedings;

- (m) failure to make restitution; or
- (n) high level of vulnerability of the victim.

Eff. January 1, 1986. Revised: January 1, 2007; January 1, 2014; July 1, 2015.

1.6 MITIGATING CIRCUMSTANCES

A member must establish mitigating circumstances by clear and convincing evidence. Mitigating circumstances may include:

- (a) absence of any prior record of discipline over many years of practice coupled with present misconduct, which is not likely to recur;
- (b) good faith belief that is honestly held and objectively reasonable;
- (c) lack of harm to the client, the public, or the administration of justice;
- (d) extreme emotional difficulties or physical or mental disabilities suffered by the member at the time of the misconduct and established by expert testimony as directly responsible for the misconduct, provided that such difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the member established by clear and convincing evidence that the difficulties or disabilities no longer pose a risk that the member will commit misconduct;
- (e) spontaneous candor and cooperation displayed to the victims of the misconduct or to the State Bar;
- (f) extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct;
- (g) prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement;
- (h) remoteness in time of the misconduct and subsequent rehabilitation;
- (i) excessive delay by the State Bar in conducting disciplinary proceedings causing prejudice to the member; or
- (j) restitution was made without the threat or force of administrative, disciplinary, civil or criminal proceedings.

Eff. January 1, 1986. Revised: January 1, 2014; July 1, 2015.

1.7 DETERMINATION OF APPROPRIATE SANCTIONS

- (a) If a member commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.
- (b) If aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given Standard. On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities.
- (c) If mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

Eff. January 1, 1986. Revised: January 1, 2014.

1.8 EFFECT OF PRIOR DISCIPLINE

- (a) If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.
- (b) If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:
 - 1. Actual suspension was ordered in any one of the prior disciplinary matters;
 - 2. The prior disciplinary matters coupled with the current record demonstrate a pattern of misconduct; or
 - 3. The prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.
- (c) Sanctions may be imposed, including disbarment, even if a member has no prior record of discipline.

Eff. January 1, 2014.

PART B. SANCTIONS FOR SPECIFIC MISCONDUCT¹

The presumed sanction for any specific act of misconduct is a starting point for the imposition of discipline, but can be adjusted up or down depending on the application of mitigating and aggravating circumstances set forth in Standards 1.5 and 1.6, and the balancing of these circumstances as described in Standard 1.7(b) and (c). For any specific act of misconduct not listed in Part B, please refer to Standards 2.18 and 2.19.

Eff. July 1, 2015

2.1. MISAPPROPRIATION

- (a) Disbarment is the presumed sanction for intentional or dishonest misappropriation of entrusted funds or property, unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate.
- (b) Actual suspension is the presumed sanction for misappropriation involving gross negligence.
- (c) Suspension or reproof is the presumed sanction for misappropriation that does not involve intentional misconduct or gross negligence.

Eff. January 1, 1986. Revised: January 1, 2014; July 1, 2015.

2.2 COMMINGLING AND OTHER TRUST ACCOUNT VIOLATIONS

- (a) Actual suspension of three months is the presumed sanction for commingling or failure to promptly pay out entrusted funds.
- (b) Suspension or reproof is the presumed sanction for any other violation of Rule 4-100.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014; July 1, 2015.

2.3 ILLEGAL OR UNCONSCIONABLE FEE

- (a) Actual suspension of at least six months is the presumed sanction for entering into an agreement for, charging, or collecting an unconscionable fee for legal services.
- (b) Suspension or reproof is the presumed sanction for entering into an agreement for, charging, or collecting an illegal fee for legal services.

¹ The term "reproof" includes public or private reproof.

Eff. January 1, 1986. Revised: January 1, 2014; July 1, 2015.

2.4 BUSINESS TRANSACTIONS, PECUNIARY INTERESTS ADVERSE TO A CLIENT

Suspension is the presumed sanction for improperly entering into a business transaction with a client or knowingly acquiring a pecuniary interest adverse to a client, unless the extent of the misconduct and any harm it caused to the client are minimal, in which case reproof is appropriate. If the transaction or acquisition and its terms are unfair or unreasonable to the client, then disbarment or actual suspension is appropriate.

Eff. January 1, 1986. Revised: January 1, 2014; July 1, 2015.

2.5 REPRESENTATION OF ADVERSE INTERESTS

- (a) Actual suspension is the presumed sanction when a member accepts or continues simultaneous representation of clients with actual adverse interests, where the member: (1) fails to obtain informed written consent of each client, and (2) causes significant harm to any of the clients.
- (b) Actual suspension is the presumed sanction when a member accepts employment that is actually adverse to a client or former client, where the member: (1) fails to obtain informed written consent, (2) breaches the duty to maintain confidential information material to the employment, and (3) causes significant harm to the client or former client.

Eff. July 1, 2015.

2.6 BREACH OF CONFIDENTIALITY

- (a) Suspension is the presumed sanction when a member intentionally reveals client confidences or secrets.
- (b) Reproof is the presumed sanction when a member recklessly or through gross negligence reveals client confidences or secrets.

Eff. July 1, 2015.

2.7 PERFORMANCE, COMMUNICATION OR WITHDRAWAL VIOLATIONS

- (a) Disbarment is the presumed sanction for performance, communication, or withdrawal violations demonstrating habitual disregard of client interests.
- (b) Actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests.

- (c) Suspension or reproof is the presumed sanction for performance, communication, or withdrawal violations, which are limited in scope or time. The degree of sanction depends on the extent of the misconduct and the degree of harm to the client or clients.

Eff. January 1, 1986. Revised: January 1, 2014; Renumbered & Revised July 1, 2015.

2.8 FEE-SPLITTING WITH NON-LAWYERS

Actual suspension is the presumed sanction when a member shares legal fees with a non-lawyer. The degree of sanction depends upon the extent to which the misconduct interfered with an attorney-client relationship and the extent to which the member failed to perform legal services for which he or she was employed.

Eff. July 1, 2015.

2.9 FRIVOLOUS LITIGATION

- (a) Actual suspension is the presumed sanction when a member counsels or maintains a frivolous claim or action for an improper purpose, resulting in significant harm to an individual or the administration of justice. Disbarment is appropriate if the misconduct demonstrates a pattern.
- (b) Suspension or reproof is the presumed sanction when a member counsels or maintains a frivolous claim or action for an improper purpose, resulting in harm to an individual or the administration of justice.

Eff. July 1, 2015.

2.10 UNAUTHORIZED PRACTICE OF LAW

- (a) Disbarment or actual suspension is the presumed sanction when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on actual suspension for disciplinary reasons or involuntary inactive enrollment under Business and Professions Code section 6007(b)-(e). The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.
- (b) Suspension or reproof is the presumed sanction when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on inactive status or actual suspension for non-disciplinary reasons, such as non-payment of fees or MCLE non-compliance. The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.

Eff. January 1, 1986. Revised: January 1, 2014; Renumbered & Revised July 1, 2015.

2.11 MORAL TURPITUDE, DISHONESTY, FRAUD, CORRUPTION, OR CONCEALMENT

Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014; Renumbered & Revised July 1, 2015.

2.12 VIOLATION OF OATH OR DUTIES OF AN ATTORNEY

- (a) Disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member's practice of law, the attorney's oath, or the duties required of an attorney under Business and Professions Code section 6068(a)(b)(d)(e)(f) or (h).
- (b) Reproval is the presumed sanction for a violation of the duties required of an attorney under Business and Professions Code section 6068(i),(j),(l) or (o).
- (c) Violations of the duties required of an attorney under Business and Professions Code section 6068(m) or (n) are covered in Standard 2.7.
- (d) Violations of the duties required of an attorney under Business and Professions Code section 6068(c) or (g) are covered in Standard 2.9.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014; Renumbered & Revised July 1, 2015.

2.13 SEXUAL RELATIONS WITH CLIENTS

- (a) Disbarment is the presumed sanction when a member requires or demands sexual relations with a client incident to or as a condition of professional representation or employs coercion, intimidation, or undue influence in entering into sexual relations with a client.
- (b) Suspension or reproval is the presumed sanction for any other violation of Rule 3-120.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014; Renumbered & Revised July 1, 2015.

2.14 VIOLATION OF CONDITIONS ATTACHED TO DISCIPLINE

Actual suspension is the presumed sanction for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and the member's unwillingness or inability to comply with disciplinary orders.

Eff. January 1, 1986. Revised: January 1, 2014; Renumbered & Revised July 1, 2015.

2.15 CRIMINAL CONVICTIONS INVOLVING MORAL TURPITUDE

- (a) Summary disbarment is the presumed sanction for final conviction of a felony in which an element of the offense involves the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involves moral turpitude.
- (b) Disbarment is the presumed sanction for final conviction of a felony in which the facts and circumstances surrounding the offense involve moral turpitude, unless the most compelling mitigating circumstance clearly predominate, in which case actual suspension of at least two years is appropriate.
- (c) Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude.

Eff. January 1, 2014. Renumbered & Revised July 1, 2015.

2.16 CRIMINAL CONVICTIONS NOT INVOLVING MORAL TURPITUDE

- (a) Actual suspension is the presumed sanction for final conviction of a felony not involving moral turpitude, but involving other misconduct warranting discipline.
- (b) Suspension or reproof is the presumed sanction for final conviction of a misdemeanor not involving moral turpitude but involving other misconduct warranting discipline.

Eff. July 1, 2014. Renumbered & Revised July 1, 2015.

2.17 CRIMINAL CONVICTION FOR SPECIFIC MISDEMEANORS

- (a) Disbarment is the presumed sanction for final conviction of a misdemeanor specified in Business & Professions Code section 6131, where a public prosecutor aids in the defense of a defendant.
- (b) Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor specified in Business and Professions Code sections 6128-6129 and 6153.

Eff. July 1, 2014. Renumbered & Revised July 1, 2015.

2.18 VIOLATION OF OTHER ARTICLE 6 STATUTES

Disbarment or actual suspension is the presumed sanction for any violation of a provision of Article 6 of the Business and Professions Code, not otherwise specified in these Standards.

Eff. July 1, 2014. Renumbered & Revised July 1, 2015.

2.19 VIOLATION OF RULES IN GENERAL

Suspension not to exceed three years or reproof is the presumed sanction for a violation of a provision of the Rules of Professional Conduct not specified in these Standards.

Eff. July 1, 2014. Renumbered & Revised July 1, 2015.

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