



The State Bar *of California*

OPEN SESSION AGENDA ITEM 701 MAY 2019

DATE: May 17, 2019

TO: Members, Board of Trustees

FROM: Donna S. Hershkowitz, Chief of Programs

SUBJECT: Appendix I Review: (1) Implementation of Recommendations Regarding Lawyer Assistance Program; (2) Proposed Changes to State Bar Rules Affecting the Committee of Bar Examiners, the California Board of Legal Specialization, the Committee on Mandatory Fee Arbitration and the Client Security Fund Commission – Return from Public Comment and Request for Approval; and (3) Re-Approval of Rules Permitting Accreditation of Online Law Schools

EXECUTIVE SUMMARY

This agenda item presents follow-up recommendations related to actions taken by the Board of Trustees at its September 14, 2018, meeting pursuant to the Appendix I review of State Bar subentities. The item specifically addresses the method for separation of the voluntary component of the Lawyer Assistance Program from the State Bar, as well as the adoption of various rule and guideline revisions, following public comment, to implement recommendations approved by the Board pursuant to the Appendix I review.

BACKGROUND

In September 2018, the Board of Trustees approved a set of recommendations regarding the number, size, organizational structure, and functions performed by many of the committees, commissions, boards, and councils that support the work of the State Bar, also known as the “subentities.” The recommendations were developed by State Bar staff at the direction of the 2017 Governance in the Public Interest Task Force. With regard to the Lawyers Assistance Program (LAP), the Board asked staff to come back at the November meeting with more information so the Board could determine if it should approve separation of the entire LAP, or only the voluntary components.

At the November 2018 meeting of the Board, State Bar staff returned with implementation plans related to these recommendations. The implementation plans were divided into two broad groups – global recommendations that apply to most or all subentities, and specific recommendations that relate to individual subentities. The plans provided broad timelines and general parameters for the implementation of the recommendations.

LAWYER ASSISTANCE PROGRAM

Also at the November 2018 meeting, the Board adopted the recommendation to retain within the LAP disciplinary and moral character referrals, and to transfer the function of managing the self-referrals (the “voluntary” part of the program) to a separate entity outside the State Bar. Staff was directed to return to the Board for a further determination of how best to accomplish that transfer. The options included contracting out the day-to-day responsibility for the delivery of the service (the “contract out” option), or having another entity assume the obligation to operate the program as well as the day-to-day responsibility for the delivery of the service (the “lift out” option).

In February and March 2019, the LAP Oversight Committee (LAPOC) met to develop a recommendation for the Board as to the contract out option or the lift out option. The Clare|Matrix organization presented what a contract out option might look like (although any such contracting out would go through an RFP process), and the California Lawyers Association presented on how they would handle the voluntary LAP through the lift out option. The LAPOC determined it required additional information before it could formulate a recommendation for the Board’s consideration and requested that staff develop an RFI and get more formal input. Staff informed the committee that they did not believe time would permit an RFI. After consultation with the Board chair, it was determined that no RFI would be pursued at this time.

On March 22, 2019, the Board of the California Lawyers Association formally adopted a resolution setting forth its desire to bring the voluntary portion of LAP to CLA:

It is hereby resolved that, if the Board of Trustees of the State Bar of California chooses to divest itself of the voluntary portion of the State Bar Lawyers Assistance Program (the “LAP”), rather than keep it as a State Bar program (to be administered by contract with an outside party or otherwise), the California Lawyers Association authorizes the Executive Director (a) to pursue negotiations with the State Bar and other stakeholders involved in the administration of the voluntary LAP to obtain necessary funding, staffing and programming associated with the voluntary LAP when divested by the State Bar, and (b) further to pursue legislative amendments on behalf of the CLA as necessary to not run a deficit, staff and administration support for the voluntary LAP as a CLA program, and (c) further to authorize the Executive Director to enter into agreements necessary to fund, staff, administer and operate the LAP as a program of the CLA.

PROPOSED CHANGES TO STATE BAR RULES

In January 2019, the Board approved circulating for public comment rule revisions necessary to effectuate the Appendix I changes relating to the Committee of Bar Examiners, the Committee on Mandatory Fee Arbitration and the Client Security Fund Commission. Rule revisions related to the California Board of Legal Specialization were approved for circulation at the March Board meeting.

ACCREDITATION OF ONLINE J.D. PROGRAMS

In November 2017, the Board of Trustees approved a package of legislative and rule changes, following multiple public comment periods, to make accreditation mandatory and to provide a path to accreditation for online J.D. programs. Statutory change is required to make accreditation mandatory, and the State Bar has not yet been successful in moving those changes forward. However, the Board of Trustees, as part of its decisions related to law school accreditation in January 2019, re-confirmed its intention that a path to accreditation be permitted for online law J.D. programs.

DISCUSSION

Following the Board's adoption in September 2018, of broad direction for the future roles and responsibilities of State Bar subentities, State Bar staff have been returning to the Board with proposals to implement that direction. This agenda item specifically addresses the adoption of amendments to State Bar rules related to the functional changes for several of the subentities. The agenda item also seeks to wrap up the decision on how best to transfer the voluntary components of the LAP while retaining within the State Bar referrals from Admissions for moral character applicants and from the disciplinary system. Finally, this agenda item seeks to move forward the State Bar's efforts to create a path to accreditation for law schools that provide online J.D. programs.

LAWYER ASSISTANCE PROGRAM

In September 2018, the Board narrowed the options presented by staff regarding the future role of the State Bar in the Lawyer Assistance Program. The Board requested that staff present implementation plans for both of these options:

- The State Bar would continue to operate the LAP as related to the Alternative Discipline Program and moral character referrals, but no longer operate the remainder, sometimes referred to as self-referrals, support, or voluntary LAP; or
- All LAP functions would be transferred out of the State Bar.

In November 2018, the Board voted to maintain the disciplinary and moral character components of LAP (the first bullet above). The implementation plan identified two methods to accomplish this:

- Contract out: The State Bar would maintain the statutory obligation to operate the LAP as a whole, and contract out the operation of the voluntary components to an outside entity, such as an employee assistance program (EAP) or program that directly provides substance use or mental health clinical support.
- Lift out: The obligation, functions, and day-to-day delivery of the voluntary components of the program would be transferred to an outside entity, such as the California Lawyers Association.

This agenda item recommends that the Board adopt the lift out option, and specifically direct that the voluntary component of the LAP be transferred to the California Lawyers Association. Even though the State Bar would have to issue an RFP and solicit proposals to pursue the contracting out option, State Bar staff and the LAPOC met with a potential vendor in advance to get a better sense of what contracting out might look like. In addition, State Bar staff and the LAPOC met with CLA to get an understanding of what the lift out option might look like. Proposals from the California Lawyers Association and CLARE|MATRIX are attached as Attachments A and B, respectively.

The LAPOC believed they needed additional information, such as whether the State Bar would even be able to contract out the voluntary component of LAP for the amount of money available (calculated at \$1.1 million annually). In the absence of that information, the LAPOC felt unable to present a recommendation to the Board.

After talking with the two programs and seeing the presentations, considering the impact on LAP participants, analyzing the impact on State Bar staff, and reviewing the obstacles to LAP participation that led to the Board decision to separate, leadership staff recommend the lift out option, and that CLA take responsibility for the voluntary LAP. That option will provide the least disruption to LAP clients and to staff. CLA proposes to take the program as we operate it. They are eager to have LAP staff who do not stay with the State Bar move to CLA and continue the operations of LAP as it currently runs. CLA would like to contract with the same group facilitators used by the State Bar, and would assume the LAP Hotline number. Although we would of course seek authorization from LAP participants to transfer files and any other information to CLA, for LAP participants, the transition should otherwise be fairly seamless. CLA has agreed they would make the LAP available to all law students, applicants for the State Bar, active, inactive, and former lawyers, irrespective of membership in CLA.

CLA seems optimally suited to assume this work. As a membership organization, CLA organizing principle is to provide services to its members. Its interest in engaging new lawyers and growing its organization will ensure that it works well with law schools and does appropriate outreach to bring participants in to the program. Additionally, CLA's focus and target audience is lawyers, whereas another entity may have a split focus on multiple client groups, and thus may not be able to secure as effective programming for its lawyer clients.

Additionally, the contracting out option runs the risk of not solving one of the key issues that inspired the separation – the low utilization rate engendered by the fear that, as a program of the State Bar, a participant's substance use or mental health issues will not remain confidential.

By fully separating the program from the State Bar, CLA stands a much greater chance of convincing attorneys that participation will be “safe,” and their information kept confidential. The State Bar determined that separation was necessary because, among other reasons, we cannot provide the help attorneys need if they are unwilling to seek it out from the disciplinary authority over their profession. By separating the program to another entity entirely, staff believe that we are increasing the likelihood that those who would benefit from the assistance, will now seek it out.

AMENDMENTS TO STATE BAR RULES TO IMPLEMENT THE DIRECTION OF THE BOARD OF TRUSTEES

In January 2019, the Board approved circulating for public comment rule changes to effectuate the direction set by the Board in its reformulation of the roles and responsibilities of various subentities and State Bar staff. Rules regarding the California Board of Legal Specialization were inadvertently omitted from the January agenda item. That proposal was approved for circulation at the March Board meeting. The 45-day public comment period having closed, staff now recommends that the Board adopt all of the amendments as proposed. Staff received three comments on the rule proposals, one related to the rules affecting the Committee of Bar Examiners, one related to the rules affecting the California Board of Legal Specialization, and one styled as relating to the rules affecting the Client Security Fund, but which was wholly unrelated to the rule changes. The rule changes are described in the January Board item, and are attached. See Attachment C for rule changes related to the Office of Admissions and the Committee of Bar Examiners. See Attachment E for rule changes related to the California Board of Legal Specialization. See Attachment G for rule changes related to the Committee on Mandatory Fee Arbitration. See Attachment H for rule changes related to the Client Security Fund Commission.

Public Comment on Rules Related to the Committee of Bar Examiners

One comment was received from Mr. Paul Kramer. Mr. Kramer notes that he disagrees with the Board determination that going forward, staff should conduct moral character informal conferences instead of members of the Committee of Bar Examiners. However, understanding that decision has already been reaffirmed by the Board, Mr. Kramer makes specific comments about several of the rules. The chart included as Attachment D identifies each specific comment made by commenter Paul Kramer, and the State Bar staff response to that comment. Staff does not believe any amendments to the rules are necessary at this time in response to Mr. Kramer’s comments. However, as noted in the chart, Mr. Kramer raised an issue, unamended by this rule proposal, related to the re-fingerprinting of applicants for admission who require an extension of their positive moral character determination because they did not get admitted to the State Bar within 36 months of their initial determination. Because this provision is existing rule, staff does not believe an amendment is required at this time to effectuate the Board’s decision related to the roles and responsibilities of the Committee and State Bar staff. However, staff will take the issue under advisement and consider whether a future rule change related to this issue is warranted.

Public Comment on Rules Related to the California Board of Legal Specialization

The CBLS as a whole and 2 members of CBLS, individually submitted a joint comment. Their memo, addressed to the Board, and a summary of the comments, along with the State Bar response, can be found in Attachment F. In large part, the comments address implementation details that are beyond the scope of the rules, such as the composition of the as yet to be formed working groups or the qualifications needed for members who will participate in exam question grading and drafting. In addition, three of the eight comments relate to issues surrounding the transition from the term “member” to “licensee.” Staff do not believe any amendments to the rules are necessary at this time in response to these comments.

Public Comment on Rules Related to the Client Security Fund

Mr. Raymond Paul Harris submitted a comment to this rule proposal. Mr. Harris’ comment is unrelated to the substance of this rule proposal, however, and thus is not addressed. See Attachment I.

ACCREDITATION OF ONLINE LAW SCHOOLS

As noted above, in November 2017, the Board of Trustees approved a package of legislative and rule changes, following multiple public comment periods, to make accreditation mandatory and provide a path to accreditation for online J.D. programs. In January 2019, as part of the decisions made regarding accreditation of law schools in California, the Board re-confirmed its intention that a path to accreditation be permitted for online law J.D. programs. Staff separated the package approved by the Board in November 2017, and is requesting re-adoption of the standalone package of State Bar Rules and Guidelines relating to the accreditation of online programs. Rule and guideline changes related to the mandatory accreditation of law schools will not be put forward absent statutory change.

Historically, law schools seeking California Accreditation could only do so if they primarily taught their classes in fixed facility classrooms, offering no more than twelve credits via online learning. The amendments permit qualifying registered, unaccredited law schools to seek California accreditation even when they offer J.D. curricula that incorporate more than the current limit of twelve hours of distance learning technology. Specifically, the rule and guideline amendments provide that accredited J.D. programs must require the satisfactory completion of 1,200 hours of “verified academic engagement” with a law school’s faculty and its curriculum, regardless of the delivery modality that the school selects. Examples of academic engagement include student attendance in a classroom, student participation in either a synchronous or asynchronous curriculum offered through distance-learning technology; conducting assigned legal research; taking an examination; or participation in experiential or clinical learning program approved under Guideline 6.6. In addition, it is contemplated that a California Accredited Law School can offer required library materials, texts, and legal authorities electronically.

Because the proposed amendments were approved by the Board of Trustees as part of a package, along with the amendments to implement mandatory accreditation, staff thought it prudent to have the Board approve the standalone package of amendments permitting accreditation of online programs, in the form attached as Attachments J and K.

FISCAL/PERSONNEL IMPACT

For the Lawyer Assistance Program: Following direction from the Board at the November 2018 meeting, staff conducted an analysis of what it would cost to fund the discipline and moral character referrals, and identified the remainder as the amount to be transferred to support the voluntary component of the LAP. Based on the current caseloads of the “mandatory” cases that would remain with the State Bar, and staffing standards proposed by the National Association of Drug Court Professionals, staff determined that minimum State Bar staffing of two Clinical Rehabilitation Coordinators and one administrative staff person would be necessary. As a result, staff calculated that the annual transfer to CLA to support the voluntary program would be \$1.1 million, to be effectuated by transferring six dollars (\$6) of the ten-dollar (\$10) fee paid by each active licensee and three-dollars (\$3) of the five-dollar (\$5) fee paid by each inactive licensee for the LAP annually.

In addition, the State Bar proposes to provide to CLA 30 percent of the \$1.1 million annual operating expenses to create an operating reserve, plus \$250,000 in start-up costs, for a total of \$580,000 one-time additional funding. These funds would draw from the LAP reserve balance which, at the end of 2019, is currently projected to total \$3.5 million, in excess of 150 percent of current annual expenses.

State Bar staff will work with the union to find appropriate placements for all remaining staff.

With respect to the various rule amendments, to the extent that subentities are eliminated or reduced in size, modest cost savings will be realized.

With respect to the accreditation of online J.D. programs, initially the workload of the Office of Admissions would increase as some unaccredited law schools apply for accreditation. Although there would be an increase in revenue from the newly accredited schools, the State Bar subsidizes the costs of accreditation, assessing less than the costs to the State Bar for administering the program.

RULE AMENDMENTS

Title 3, Division 2, Chapter 2

Title 3, Division 4, Chapter 1

Title 3, Division 4, Chapter 2

Title 4, Division 1, Chapters 1, 2, 4, 5, 6 and 7

Title 4, Division 2, Chapters 1 and 2

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: c. No later than September 30, 2018, determine the appropriate role of, and Board responsibility for, State Bar Standing Committees, Special Committees, Boards, and Commissions in the new State Bar.

RECOMMENDATIONS

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

RESOLVED, that the Board of Trustees supports the “lift out” option for the “voluntary” Lawyer Assistance Program, with the responsibility for the program transferring to the California Lawyers Association. The Board directs staff to work with CLA and the Legislature to effectuate this change; and it is

FURTHER RESOLVED, that, following the 45-day public comment period, the Board of Trustees hereby approves and adopts proposed amendments to Rules of the State Bar regarding the operation of the Committee of Bar Examiners and the Office of Admissions, shown in mark-up text in Attachment C and summarized above; and it is

FURTHER RESOLVED, that, following the 45-day public comment period, the Board of Trustees hereby approves and adopts proposed amendments to Rules of the State Bar regarding the operation of the California Board of Specialization, shown in mark-up text in Attachment E and summarized above; and it is

FURTHER RESOLVED, that, following the 45-day public comment period, the Board of Trustees hereby approves and adopts proposed amendments to Rules of the State Bar regarding the operation of the Committee on Mandatory Fee Arbitration, shown in mark-up text in Attachment G and summarized above; and it is

FURTHER RESOLVED, that, following the 45-day public comment period, the Board of Trustees hereby approves and adopts proposed amendments to Rules of the State Bar regarding the operation of the Client Security Fund Commission, shown in mark-up text in Attachment H and summarized above; and it is

FURTHER RESOLVED, that the Board of Trustees hereby confirms its previous approval and adoption of proposed amendments to the Rules of the State Bar and Guidelines for Accredited Law Schools creating a path to accreditation of online J.D. programs, shown in mark-up text in Attachments J and K.

ATTACHMENTS LIST

- A.** Presentation and Letter from the California Lawyers Association Related to the Voluntary Portion of the Lawyer Assistance Program
- B.** Presentation from CLARE|MATRIX to the Lawyer Assistance Program Oversight Committee
- C.** Proposed Changes to State Bar Rules Related to CBE and Admissions in Mark-Up Text: Title 4, Division 1, Chapters 1, 2, 4, 5, 6 and 7
- D.** Comment on Proposed Changes to State Rules Related to CBE and Admissions
- E.** Proposed Changes to State Bar Rules Related to the California Board of Legal Specialization in Mark-Up Text: Title 3, Division 2, Chapter 2
- F.** Comments on Proposed Changes Related to the California Board of Legal Specialization
- G.** Proposed Changes to State Bar Rules Related to Proposed Changes Related to Mandatory Fee Arbitration in Mark-Up Text: Title 3, Division 4, Chapter 2
- H.** Proposed Changes to State Bar Rules Related to the Client Security Fund in Mark-Up Text: Title 3, Division 4, Chapter 1
- I.** Comment on Proposed Changes to State Bar Rules Related to the Client Security Fund Commission
- J.** Previously Approved Changes to State Bar Rules Related to the Accreditation of Online J.D. Programs
- K.** Previously Approved Changes to Guidelines for Accredited Law Schools Related to the Accreditation of Online J.D. Programs

March 7, 2019

Lawyer Assistance Program Oversight Committee
180 Howard Street
San Francisco, CA 94105

Dear Members of the Lawyer Assistance Program Oversight Committee,

Thank you for giving me and Ellen Miller, Director of Strategic Partnerships and Initiatives, the opportunity to present our proposal last Friday, March 1st. We appreciated the time and your questions.

We wanted to take this opportunity to clarify a few issues based on your discussion last week:

1. Our Lawyer Assistance Program Committee would be comprised of lawyers, mental health professionals and substance abuse experts. We would also tap into the expertise and experience of other LAP programs including the ABA's Commission on Lawyer Assistance Programs. We have deep connections within the national bar association community that can buttress this effort. Additionally, should the State Bar wish to appoint a State Bar Court judge and/or member of the State Bar LAP Oversight Committee as a liaison to the CLA committee, we would be amenable to that request.
2. Our proposal focuses on minimal disruption to the program and staff by continuing with the current model and approach. This is intentional to maintain continuity and to provide stability for program users.

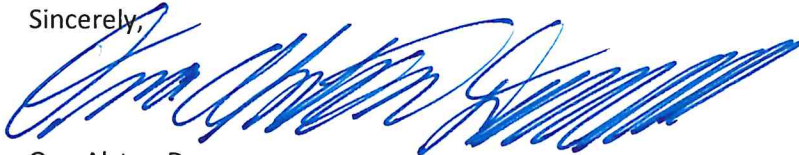
However, our key goal would be to expand the program's utilization and we believe we share that goal. If, over time, the current program model is not resulting in an increase in utilization, we would retain experts, including Patrick Krill and others who work nationally, to make recommendations for program modification.

3. Our staffing approach would be to offer existing State Bar staff, including LAP Program Supervisor Michelle Harmon, the opportunity to come over and work with CLA. We would maintain their current salary, permit the LAP staff to work remotely and we would do our best to ensure that the transition from State Bar to CLA results in minimal disruption of benefits i.e. vacation levels. While we do not have access to PERS platform for retirement benefits, the CLA plan will certainly add additional resources to their PERS retirement compensation and is a competitive plan.

4. We would ensure that all program users understand CLA is not the State Bar of California and is not the regulator of the profession. We would also ensure that clients and support group facilitators understand that no program user information would be shared with the State Bar and would be treated with the highest confidentiality.
5. We are the trusted source for a variety of services to support California lawyers. Even in our early years, our membership numbers and scope have increased. We believe attorneys will feel more comfortable using their professional association for the Lawyer Assistance Program vs. using an unknown provider, which will increase utilization.
6. Our existing relationship with the California Judges Association (CJA) will help to spread the message about the importance of lawyer well-being, work/life balance and the importance of getting help. The relationship with CJA to destigmatize substance abuse and mental health issues is critical to the program's expansion and is something that cannot be replicated by outside providers.

Again, we appreciated your time. If you have any other specific questions or concerns, we would be happy to address those at the most appropriate time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ona Alston Dosunmu", written in a cursive style.

Ona Alston Dosunmu
Executive Director

Proposed Voluntary Lawyer Assistance Program

Ona Alston Dosunmu
CLA Executive Director

What is CLA?

CLA is a voluntary state bar association in California

2017

We were created by the legislature

Our Mission

2018 and beyond

Our mission is to promote excellence, diversity and inclusion in the legal profession and fairness in the administration of justice and the rule of law.

To fulfill our mission, we have a variety of structures and platforms in place:

- Established and well-regarded educational platforms
- An advocacy platform that allows us to raise the visibility of critical issues impacting the profession
- Leadership on critical initiatives:
 - Access to Justice/Pro Bono
 - Diversity, Equity and Inclusion
 - Civics Engagement
 - Bar Outreach

CLA includes:

We are well regarded by the State Bar of California, the legislature and the judicial branch.

- **16 well-established, practice-focused sections**
- **All attorneys in their first 8 years of practice**
- **100,000 members**

CLA's Proposal*

Continuation of
the Current
Model

Limited
Disruption to
Users and Staff

**While the CLA Board has approved discussions between CLA and the State Bar about the voluntary LAP, CLA will seek final, formal approval at its March 22, 2019 meeting.*

Both State Bar mandatory LAP and CLA's voluntary LAP will refer individuals to existing LAP support groups and maintain the effectiveness of this model

Outreach

The program will continue to outreach to:

- Law students through our existing connection with law school deans and associate student services deans
- All California licensed attorneys and former attorneys

We will also add:

- Outreach to CLA members through our existing, targeted educational and communication platforms
- Targeted education to new lawyers
- Collaboration with the new California Judges Association that is leading efforts on mindfulness and wellness for judges

Staffing

The program will continue to utilize:

- 1 Program Supervisor
- 2 Clinical Rehabilitation Coordinators
- 1 Administrative Assistant
- Up to 2 Senior Program Analysts

Staff Location:

Although we are headquartered in Sacramento, existing staff would be invited to work remotely and CLA would provide office equipment to all for this option.

We would also provide professional locations for CRCs to meet with volunteer participants.

Coordination with the State Bar of California

We propose:

- Partnering with the State Bar to ensure the existing LAP support structures and facilitators are effective.
- Developing joint criteria to assess existing and recruit new support group facilitators.
- Developing joint information for all participants – both voluntary and mandatory – to understand the LAP support group shared environment
- Upon CLA board approval, developing a MOU outlining our partnership

Other Program Components that would continue

Same Hotline:

- 877-LAP-4HELP
- Provision of assistance to the voluntary LAP for those in financial need
- Transition Assistance Services Program

Additional Information

We will:

- Develop additional programming to support and raise awareness of the voluntary LAP to include health and wellness programming
- Creation of a CLA Wellness Committee to identify educational and other possibilities
- Collaborate with the California Judges Association to further support the importance of wellness



THE WELLNESS PROFESSIONALS PROGRAM PROPOSAL

CLARE|MATRIX, a nonprofit with almost 85 years of experience in substance use prevention and treatment, is uniquely positioned to effectively serve attorneys throughout the state of California who are struggling with mental health and/or substance use disorders. While nearly one in four lawyers is impacted by substance use disorders and/or mental health challenges, stigma and concerns over confidentiality can severely limit their use of existing treatment programs. We believe that a strong and supportive partnership between CLARE|MATRIX, the State Bar (SB) and its Lawyers Assistance Program (LAP) will enable us to jointly reach and assist an increasing number of attorneys in need of substance use and/or mental health services.

CLARE|MATRIX provides a powerful combination of treatment, prevention, behavior support, general wellness and self-care, research and training. Integrating the Matrix Model and other evidence-based approaches, CLARE|MATRIX will work with the SB and LAP to design a program that not only meets each person's individual needs and circumstances but is also tailored to the needs and concerns of the legal profession.

CLARE|MATRIX is nationally and internationally recognized for its structured, evidence-based outpatient treatment approach known as the Matrix Model. This effective protocol has been used to treat thousands of methamphetamine, alcohol, and other substance abusing clients. First developed in the mid-1980s, the Matrix Model has over 30 years of research and development and is the only specific evidence-based treatment program model endorsed by the Federal Government's National Institute for Drug Abuse (NIDA).

With over 30 years of success, the Matrix Model integrates psychoeducation, cognitive behavioral therapy, contingency management, motivational interviewing, 12-step facilitation, family involvement, and other elements to give participants the skills and understanding they need to overcome addiction.

A leader in both the substance abuse and mental health treatment fields, CLARE|MATRIX offers a wide range of behavioral health services, from intensive partial hospitalization to individual, family and group therapy. For individuals who may require medication assisted treatment, we have an Opioid Treatment Program, combining medication with behavioral therapies. At the urging of the Los Angeles Department of Mental Health, CLARE|MATRIX recently opened Healing House, a crisis residential treatment program for those with co-occurring disorders (a brain illness and a substance use disorder).

Following the merger of Matrix Institute on Addictions and Clare Foundation in 2018, CLARE|MATRIX now employs over 200 staff, including licensed therapists and counselors in the field of addiction, behavioral health, marriage and family, trauma and more, at 14 sites throughout Southern California. CLARE|MATRIX has touched over 100,000 lives with our treatment services and our staff has trained more than 6,000 individuals in 50 states and 21 countries to offer the acclaimed Matrix Model Intensive Outpatient Treatment Program.

CLARE|MATRIX Proposed Services:

CLARE|MATRIX will work closely with the SB and LAP to conduct a in-depth needs assessment to better understand how to meet the needs of participating lawyers and law students. Recognizing that participants can be mandatory or voluntary and will have a full continuum of needs, ranging from mild to severe substance use and/or mental health disorders, services will be determined following a comprehensive assessment.

Comprehensive Assessment

CLARE|MATRIX will collaborate with the SB and LAP in the evaluation, assessment, compliance and completion tracking, ongoing referral/case management and initial triage of participants. Following best practices, CLARE|MATRIX can provide voluntary and mandatory participants with a comprehensive assessment by an expert, multidisciplinary team of board-certified physicians, psychiatrists, and addiction medicine clinicians with decades of successful outcomes. This team administers a Multidisciplinary Comprehensive Assessment Program (MCAP) over the course of one, two or three days based on the individual needs of the patient and the referring entity. A point person guides the process from start to finish, coordinating discussion among team members and assembling a detailed report to satisfy the requirements of the SB and LAP.

The comprehensive assessment is a thorough evaluation that includes:

- Psychological, psychiatric, general medical, and neuropsychological evaluations by a board-certified addiction psychiatrist and board-certified general psychiatrist
- Personality and neurocognitive testing by a board-certified neuropsychologist
- Drug use, abuse, and dependence screening
- Toxicology that can include testing of urine, blood, hair, and nails
- Collateral information
- Specialty consultation when necessary, including lab work as determined by the staff and consultation with other board-certified specialists located on the same campus

- Evaluation by a board-certified psychiatric nurse practitioner, licensed clinical social worker, licensed professional addiction counselor and board-certified internist
- Special assessments to include family, process addictions, eating disorder consultations, etc.
- Recommendations to referral sources on fitness for duty and return to work
- MCAP assessment is completed within two to three days
- Development of comprehensive recovery plan.

Depending on assessed needs, there will generally be three types of service tracks for participants – for substance use disorders (SUD), mental health (MH), and co-occurring. Depending on level of need, services may range from inpatient services for clients with severe SUD needs to Health & Wellness program services tailored for lawyers with mild SUD and/or mental health needs. For those with higher acuity mental health needs, we will build on partnerships with established providers within their geographic region. For participants with assessed substance use disorders (SUD) or who have both a substance use and mental health disorder (co-occurring) we will follow the treatment protocols and Matrix Model as described in the following section.

CLARE|MATRIX will utilize the secure patient/client portals and video conferencing that are becoming increasingly common in the behavioral health field to provide a confidential virtual telemedicine platform that is compliant with the Health Insurance Portability and Accountability Act (HIPAA). Participants can attend individual and group sessions with a therapist online or by mobile phone, creating less stigma and greater access to services.

Program participation would also include drug testing services (in-clinic for clinic participants); and random tests at assigned testing sites within 24 hours of notification for participants who have stepped down in care or are served through telemedicine.

TREATMENT PROTOCOLS FOR SUBSTANCE USE DISORDERS

The following provides an example for how CLARE|MATRIX will work with the SB and LAP to refine two types of treatment protocols for substance use disorders - one for mandated participants referred into treatment and one for participants who voluntarily seek treatment on their own volition without a mandate.

Mandated Participants

Using the Evidence-Based Matrix Model, mandated participants referred in by LAP would receive a **4-year program** [the length of the program could be determined by the SB] consisting

of 4 months Intensive Outpatient treatment followed by a step down in care to 2 months of Outpatient treatment with continuing care monitoring, including monthly sessions and random testing, lasting the remainder of their 4-year program.

SAMPLE 3 YEAR TREATMENT PROTOCOL for Mandated Participants

Phase	Description		Frequency
MONTHS 1-4	Intensive Out Patient Treatment	Treatment will consist of Early Recovery Groups, Relapse Prevention Groups, Family Education, Individual, and/or Conjoint and Family sessions, Mindfulness sessions and weekly random urine testing.	3 Hours a day- 3 times a week
MONTHS 5-6:	Out Patient Treatment	Treatment will consist of Relapse Prevention Groups, Lawyer-Focused Social Support Group, Individual, and/or Conjoint and Family sessions, and weekly random urine testing.	3 Hours a day-2 times a week
MONTHS 7-36	Continuing Care	Participant attends 1 time a week for Lawyers Support group/ Social support group and bi-monthly individual session that can be provided in person or via Telemedicine and weekly random urine testing.	90 minutes per week with bi-monthly individual session
MONTHS 37-48	Continuing Care & Monitoring	Participant attends an ongoing group and/or an individual session monthly and weekly random urine testing.	90 minutes per month

Participants may also include outside support meetings of their choice.

Voluntary Participants

Voluntary participants will receive an assessment and will meet with a counselor to collaboratively identify a treatment track that will align with their current goals, readiness, and

schedule requirements. Voluntary participants will collaboratively review treatment progress during the course of services to determine whether step-up or step-down may be recommended.

Using the Evidence Based Matrix Model, voluntary participants coming in would generally receive a **1-year program** consisting of 4 months Intensive Outpatient treatment followed by 8 months of continuing care or more if deemed clinically appropriate.

The following is a sample for a voluntary participant whose assessment, readiness, and availability support beginning in Intensive Outpatient Services.

SAMPLE 1 YEAR TREATMENT PROTOCOL for Voluntary Participants

Phase	Description		Frequency
MONTHS 1-4	Intensive Out Patient Treatment	Treatment will consist of Early Recovery Groups, Relapse Prevention Groups, Family Education, Individual, and/or Conjoint and Family sessions, Mindfulness sessions and weekly random urine testing.	3 Hours a day- 3 times a week
MONTHS 7-12+	Continuing Care	Participant attends 1 time a week for Lawyer Support group/ Social support group and bi-monthly individual sessions that can be provided in person or via telemedicine and weekly random urine testing.	90 minutes per week with bi-monthly individual sessions

EXAMPLES OF TREATMENT SERVICES

CLARE|MATRIX provides a structured Intensive Outpatient (IOP) treatment experience designed to give clients the knowledge, structure, and support they need to achieve abstinence from alcohol and other drugs and initiate a long-term program of recovery. The program addresses core clinical areas within five components: Individual/Conjoint sessions, Early Recovery Skills group, Relapse Prevention group, Family Education group, and Social Support group, with the option of adding professional or site-specific groups. The five components of the

model are outlined below as well as a new program designed specifically for professionals and overviews of Site-Specific Groups and Urine and Breath-Alcohol Testing.

1. *Individual and Conjoint Sessions* are designed to orient the client (and, whenever possible, family members) to the expectations of the IOP, complete the administrative documentation, and establish rapport with the client to encourage treatment compliance. Psychotherapy will be provided by Master level counselors to meet the needs of each individual. For clients using addiction medications along with psychosocial treatment—and for those who want to explore that possibility—are designed to be delivered as supplementary sessions on medication-assisted treatment, or MAT.
2. *Early Recovery Skills Group* clients learn many of the basic skills they need to achieve initial sobriety and provides an introduction to basic cognitive-behavioral interventions designed to achieve abstinence and reinforce the value of Twelve Step and other spiritual or self-help participation. These early recovery skills are separate and distinct from relapse prevention exercises, which are intended to maintain sobriety. Should a client become unstable during treatment and begin using again, therapists may choose to place people back in this basic skills group as a refresher course and to provide more structure. Some programs have chosen to keep clients in the Early Recovery Group for the entire treatment episode.
3. *Relapse Prevention Groups* are designed to assist clients in maintaining abstinence by delivering information, support, and guidance as they proceed through recovery. It is critical that these groups be scheduled at the beginning and at the end of the week—with the Family Education group in the middle of the week—for the first twelve weeks. This provides an intensive treatment experience with client contact spread evenly throughout the week. The Relapse Prevention group is a central part of the Matrix Model IOP. This group includes a Peer Mentor, a graduated client in the later stages of the program who is continuing to work a program that other clients can emulate. Peer Mentor is an important element in the group dynamic.
4. *Family Education Group* sessions are designed to be interactive, allowing the group leader to include the most pressing issues for both clients and family members. The Family Education we show as part of these sessions can be adapted for specific topics relevant to lawyers and law students to be included in the Family Education group.
5. *Social Support Group* for clients who have attained a stable recovery and have completed twelve weeks or more of the Matrix Model IOP is designed to help them learn re-socialization skills in a familiar, safe environment. It is also helpful in preventing possible relapse due to the anxiety of leaving treatment.

The Site-Specific Group meets for 90 minutes either before or after the weekly Family Education group or Social Support group. These sessions address special needs of a treatment site's

particular clients. Topics might include mindfulness, Twelve Step Facilitation, co-occurring disorders, anger management, life skills, relationship violence, or trauma.

Urine Testing and Breath-Alcohol Testing. All clients are asked to provide a urine specimen for drug analysis one day (randomly selected) each week. The frequency of the specimen analysis can be determined by the needs of the SB. Breath-alcohol testing is used as needed. Regular urine testing and breath-alcohol testing are part of the structure that helps to control alcohol and other drug use. Testing is a valuable tool that is presented to the client as something that can assist in recovery. It is not presented or employed primarily as a monitoring measure or as a statement of mistrust regarding a person's honesty. Testing helps the therapist and client keep the client's behavior in line with the recovery process.

This structure is also very appropriate for people with co-occurring disorders. Mental health practitioners find it most effective to focus on both disorders simultaneously and concurrently when possible. The most appropriate way to use the materials for these clients is to focus on reducing the use of nonprescribed drugs and alcohol while simultaneously tracking compliance with prescribed psychiatric medications.

HEALTH & WELLNESS FOR PROFESSIONALS PROGRAM

CLARE|MATRIX would also begin offering a Health and Wellness for Professionals Program focusing on self-care, vicarious trauma, and compassion fatigue. The content of this program would be a curriculum utilizing psychoeducation related to defining these concepts and looking at some of the most current data related to the psychological and physiological effects of compassion fatigue and vicarious trauma. This Health and Wellness for Professionals curriculum would then involve cognitive behavioral group and individual interventions and homework as well as teaching specific coping and mindfulness skills to participants and providing opportunities to rehearse and master these skills. The Health and Wellness Program could also be used as additional step-down support to participants completing Recovery and other mental health services.

The Health and Wellness Program would be initiated as both clinic-based (in-person) and telemedicine (virtual) experiences.

OUTREACH

CLARE|MATRIX has a long history of building and sustaining community partnerships with complex hospitals and universities and locally focused organizations to facilitate the identification of prospective clients for a broad spectrum of programs. Our reputation for quality

and comprehensive treatment services and history of providing the Matrix Model of service to professionals, a full-time marketing and communications team, and portfolio of effective and successful recruitment activities, well positions us to create and effect an outreach and communication plan. The Outreach and Communications plan will be strategically designed to increase exposure of attorneys to the Wellness Professional Program, with a special focus on future attorneys and seasoned senior attorneys in the field. It will also tap into our existing partnerships with a collective of colleges and universities throughout California. These existing partnerships would translate easily to content appropriate for law schools, law firms and local bar associations. In addition to shaping a coordinated slate of marketing materials and market analysis, our Outreach Directors that facilitates client engagement in our programs will bring both their expertise and well-established network and community linkages to bear in facilitating partnerships that can further the goals of informing members of the SB and law students about the benefits of the program. We would work closely with the SB and LAP to determine outreach needs and systems, particularly to ensure that participants feel contacts and information are kept confidential. As much as feasible, we will integrate current LAP staff onto our team. We will also work closely to align evaluation, assessment, compliance and completion tracking, ongoing referral/case management and initial triage of participants currently being provided for mandatory participants to understand the efficacy of the activities.

CLARE|MATRIX Key Personnel:

CLARE|MATRIX employs over 200 dedicated staff at 14 different locations. Key leadership personnel who will be involved in further shaping Wellness Plan Professional Program services include:

Lisa Steele, Ph.D. Chief Executive Officer

Dr. Steele has 30 years' experience in the substance abuse and mental health treatment field for 30 years. She has led organizations of all sizes serving those with co-occurring substance misuse and mental health disorders, and clients with domestic violence and forensic issues, with the focus on access to care for the under-served and challenged. She worked with the Los Angeles Department of Mental Health to bridge the gap between mental health and substance abuse treatment services, so that people with addictions could obtain treatment through all avenues. She served as a consultant to the National Institute of Mental Health, and created the first "Minor Consent" Substance Abuse Treatment Program in California. For more than 10 years she has served on the California Statewide Co-Occurring Conference Planning Committee. She earned her Master's Degree in Marriage, Family, Child Therapy and her Doctorate in Clinical Psychology with two certifications in substance use disorder treatment and co-occurring disorders treatment.

Scott Van Camp, LMFT, Chief Clinical Officer

Mr. Van Camp is a therapist and clinical supervisor/administrator who has worked with diverse populations in a wide array of treatment settings over 28 years. He has overseen residential and inpatient substance use and dual diagnoses programming, developed curricula and training, including research, design, and delivery of curricula related to all areas of clinical service provision including: Leadership and Coaching, Substance Abuse, Trauma-Informed Treatment, Co-occurring Disorders, DSM V, and Clinical Supervision. He has worked with a broad array of community stakeholders including probation, judges, law enforcement, and other human service agencies. At CLARE, Mr. Van Camp oversees all in-patient and out-patient services.

Ahndrea Weiner, Director of Training

Ms. Weiner is a Licensed Marriage and Family Therapist and Licensed Professional Clinical Counselor with a Master of Science in Educational Psychology. She was clinical supervisor on numerous nationally recognized NIDA/SAMHSA/CSAT research studies, and clinical director of outpatient treatment programs. Her wealth of knowledge in evidence-based treatment practices such as the Matrix Model and Motivational Interviewing has taken her around the world providing training to individuals and organizations. Ms. Weiner is also a Professor of Psychology at Pepperdine University in the Graduate School of Education Psychology, where she most recently created the very first online addictions course curriculum for the Marriage and Family Graduate Studies program. Ahndrea is also on the faculty as well as an active Board member for the Alcohol and Drug Studies Program at UCLA. She has authored book chapters and journal articles in the addictions field, co-created the AAMFT Substance Use Disorders Online Certification Program, has appeared in numerous training videos and was featured in the HBO 14-part documentary series, “Addiction”. Licensed since 1993, Ahndrea continues to see clients via her Telemedicine private practice.

CLARE|MATRIX Next Steps:

After a collaborative planning process, CLARE|MATRIX proposes that our partnership with the SB and LAP begins with offering mandatory and voluntary Substance Recovery groups at our Woodland Hills Clinic. We would also then begin offering MATRIX groups as a telemedicine experience for voluntary and mandatory participants. The telemedicine services will include 1-on-1 online counseling compliant with HIPAA regulations. Outpatient Mental Health group and individual services would also be offered via our telemedicine platform.

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, pursuant to the authority delegated to it by the Board of Trustees, 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~~ Scope of Rules

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) “Director of Admissions” or “Director, Admissions” means the Director of the State Bar Office of Admissions, or that person’s designee.

~~(F)~~(H) A “general applicant” is an applicant who has not been admitted as an attorney to the practice of law in any jurisdiction.

~~(G)~~(I) 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.

~~(H)~~(J) 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.

~~(I)~~(K) An “informal conference” is defined in Rule 4.45.

~~(J)~~(L) The “Office of Admissions” (“Admissions”) is the State Bar office authorized by the Board of Trustees and the Committee to administer examinations and otherwise act on ~~their~~its behalf.

~~(K)~~(M) “Receipt” of a document the State Bar or 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 State Bar or Committee delivers a document physically by personal service or otherwise.

² Business & Professions Code § 6060(h).

(L)(N) “Receipt” of a document sent to the State Bar or Committee is when it is physically received at the Office of Admissions.

(M) ~~“Senior Executive” means “Senior Executive, Admissions” or that person’s designee.~~

(N)(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.

(O)(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; amended effective 2019.

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; amended effective 2019.

Rule 4.5 Submissions

(A) A document filed with the State Bar or 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) The information obtained by the State Bar as a result of the fingerprinting of an applicant is Fingerprints provided by applicants are used to establish identity of the applicant, to determine the moral character of the applicant, and to disclose criminal records of the applicant in California or elsewhere. Fingerprint records Any information obtained as a result of fingerprint submission isare confidential and for official use of the Committee and the State Bar.

³ Evidence Code § 1040, Business & Professions Code §§ 6044.5, 6060.2, 6060.25, 6086, and 6090.6.

⁴ Code of Civil Procedure § 2015.5.

- (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 State Bar Committee requires the information to verify identity.

Rule 4.5 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective 2019.

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; amended effective 2019.

Rule 4.7 Statistics

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

Rule 4.7 adopted effective September 1, 2008; amended effective 2019.

Rule 4.8 Extensions of time

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

Rule 4.8 adopted effective September 1, 2008; amended effective 2019.

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

Applicants shall pay reasonable fees. The Committee may set reasonable fees, subject to approval effixed by 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 [State Bar 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 [State Bar 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.

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 [State Bar Committee](#) determines when an application is complete.
- (B) The Application for Registration must be approved, before any other application is ~~transmitted to the Committee~~[submitted](#). The applicant is required by law either to provide ~~the Committee with~~ a Social Security Number⁶ [on the application](#) or to

⁵ Business & Professions Code § 6060.

⁶ Business & Professions Code § 30, Family Code § 17520.

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 ~~State Bar~~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.
- (C) An applicant may request a review by the Committee of the State Bar's decision within 30 days of service of the notice of decision.

Rule 4.17 adopted effective September 1, 2008; amended effective November 14, 2009.

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

⁷ Business & Professions Code § 6060.6.

- (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 State Bar 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; amended effective 2019.

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 State Bar Committee within ninety days of the request.

(B) An applicant may request a review by the Committee of the State Bar's decision within 30 days of service of the notice of abandonment.

~~(B)-(C)~~ (C) 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; amended effective 2019.

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 State Bar 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 Office of Admissions Committee at its San Francisco office.

Rule 4.44 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective 2019.

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 State Bar 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 State Bar 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 State Bar Committee.

Rule 4.45 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective 2019.

Rule 4.46 Informal conference regarding moral character

- (A) The State Bar 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 Committee must schedule the informal conference, and within thirty days of the conference notify the applicant of its final determination. An adverse determination may be appealed in accordance with these rules.~~
- ~~(C)~~(B) The State Bar Committee 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; previously amended effective November 14, 2009; amended effective 2019.

Rule 4.47.1 Request for Review By the Committee of Adverse Determination

- (A) An applicant notified of an adverse determination of moral character may request a review by the Committee. The request must be submitted to the Office of Admissions within 30 days of the date of the notice of the State Bar's determination. The applicant may submit supplemental material with the request.
- (B) Within 60 days of receipt of the request for a review, the Committee will conduct a review of the record, which may include a review of the transcript or recording of the informal conference. The Committee may request additional information

from the applicant or from the State Bar. The Committee must notify the applicant of its final determination within 30 days of its decision.

Rule 4.47.1 adopted effective 2019.

Rule 4.47 Appeal of adverse determination of moral character issued by Committee

- (A) If the Committee issues ~~An applicant notified of~~ an adverse determination of moral character, an applicant 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 Office of Admissions 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; previously amended effective July 24, 2015; amended effective 2019.

Rule 4.48 Agreement of Abeyance

- (A) The State Bar 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 State Bar 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; amended effective 2019.

Rule 4.49 New application following adverse determination of moral character

The State BarCommittee 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 State BarCommittee, for good cause shown, at the time of its adverse determination.

Rule 4.49 adopted effective September 1, 2008; amended effective July 24, 2015; amended effective 2019.

Rule 4.50 Suspension of positive determination of moral character

- (A) Before certifying an applicant for admission to the practice of law, the State BarCommittee 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; previously amended effective July 22, 2011; amended effective 2019.

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

(A) 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 State BarCommittee 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 State BarCommittee 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.

(B) An applicant may request a review by the Committee of the State Bar's decision within 30 days of service of the notice of decision.

Rule 4.52 adopted effective September 1, 2008; amended effective 2019.

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 State Bar Committee. The State Bar develops the questions. Pursuant to the authority delegated to it by the Board of Trustees, ~~t~~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; amended effective 2019.

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 State Bar Committee. Pursuant to the authority delegated to it by the Board of Trustees, ~~t~~The Committee determines the examination's format, scope, topics, content, questions, and grading process, ~~and passing score.~~
- (B) The State Bar 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; previously amended effective July 22, 2011; amended effective 2019.

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. To avoid imposition of a late fee, a ~~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 1~~5~~ or January 1~~5~~ 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; amended effective 2019.

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 State Bar Committee as a Chapter 6 Notice or, in extreme cases, may 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. A copy of the Chapter 6 Notice is provided to the applicant during or following an examination.

Rule 4.70 adopted effective September 1, 2008; amended effective July 22, 2011; amended effective 2019.

Rule 4.71 Reports of conduct violations

- (A) The State Bar ~~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 State Bar 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 State Bar Committee may establish guidelines for the processing of conduct violations. The State Bar 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; previously amended effective July 22, 2011; amended effective 2019.

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 State Bar 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)~~ (B) Once an applicant has filed a request for an administrative hearing on a conduct violation, the State Bar 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 State Bar 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 State Bar Committee has the burden of establishing by clear and convincing evidence that a violation occurred.
- (C) The State Bar 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 State Bar 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 State Bar's Findings and Recommendations by Committee

(A) An applicant may request review by the Committee 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 the Committee's next regularly scheduled meeting. The Committee may request additional information from the applicant or from the State Bar. ~~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)-(B)~~ The Committee may adopt the State Bar's Findings and Recommendations ~~of the hearing panel~~ or take any other action it deems appropriate.

~~(D)-(C)~~ The Committee will notify the applicant within ten days of its determination.

~~(E)-(D)~~ If the applicant does not request review of the State Bar's Findings and Recommendations ~~of the panel~~ within ten days of service ~~and the Committee does not seek review~~, the State Bar's 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 State Bar's Committee's forms with the required documentation;
- (C) establish to the satisfaction of the State Bar 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; previously amended effective November 14, 2009; amended effective 2019.

Rule 4.81 Testing accommodations in general

- (A) Petitions for testing accommodations are processed on a case-by-case basis.
- (B) The State Bar 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 State Bar 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; amended effective 2019.

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 State Bar 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; amended effective 2019.

Rule 4.83 Guidelines for testing accommodations

- | (A) The State Bar Committee 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 State Bar Committee may publish guidelines for other disabilities accommodated on past examinations.

| Rule 4.83 adopted effective September 1, 2008; amended effective 2019.

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 State BarCommittee 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; previously amended effective July 22, 2011; amended effective 2019.

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 State Bar'sCommittee'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 State BarCommittee 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 State BarCommittee 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 State BarCommittee 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; previously amended effective July 22, 2011; amended effective 2019.

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 State Bar's 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; previously amended effective November 14, 2009; amended effective 2019.

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 State Bar 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 State Bar 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; previously amended effective July 22, 2011; amended effective 2019.

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 request a review by appeal the decision to the Committee. The requestappeal 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) Requests for reviewAppeals 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. RequestsAppeals received after that date will be considered in connection with future administration of the examination.
- (C) After reviewing the request for reviewappeal and supporting documentation, the Director of AdmissionsSenior Executive may withdraw the prior decision and grant the accommodations requested.
- (D) If the Director of AdmissionsSenior Executive does not grant the requestan 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 applicantpetitioner and the Director of AdmissionsSenior 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. The Committee delegates decision making authority to the Examinations Subcommittee for all time-sensitive testing accommodation reviews. 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.

Comment on Proposed Changes to State Rules Related to CBE and Admissions

Commenter	Comment	State Bar Response
Paul Kramer, Individually*	The term “State Bar,” so widely inserted to implement the reassignment of Committee roles to State Bar staff should be defined in Rule 4.3. Alternatively, use “state bar staff” or “Director of Admissions.” One should not have to read the long-gone staff report to understand that to be the intended result.	No change proposed. Using the term “State Bar” broadly allows for flexibility in operations and allows for changes in internal processes without having to revise the rules.
	Rule 4.47 is not clear whether one must first appeal to the Committee before taking an adverse determination [regarding character] to State Bar Court.	No change proposed. Rule 4.47 and 4.47.1 set forth the process for appeal of adverse determinations – first, appealing a staff determination to the Committee of Bar Examiners, and then appealing an adverse determination of the Committee of Bar Examiners to the State Bar Court. states: “If the Committee issues an adverse determination of moral character, an applicant 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.” Rules of Procedure, Rule 5.641 states that if the Committee 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. Staff believes the language is clear that the applicant may only file a request for a hearing if the applicant receives an adverse moral character determination by the Committee.

Comment on Proposed Changes to State Rules Related to CBE and Admissions

Commenter	Comment	State Bar Response
	In a few places, it is appropriate to leave the Committee mentioned as both the staff and the Committee need the authority. See Rule 4.48, Rule 4.49 (second deleted mention of the Committee)	No change proposed. The agreement of abeyance to suspend processing of a Moral Character Application and permission to file a new application will not require Committee approval.
	Rule 4.50 – Can a suspension be appealed?	No change proposed. As set forth in Rule 4.50, the suspended positive determination of moral character is processed in accordance with Rule 4.45 (processing of moral character applications), which provides timelines for updates/decisions. If staff ultimately denies the application after suspension, a review may be conducted by the Committee; if the Committee denies the application, the applicant may appeal to the State Bar Court.
	Rule 4.52 – Why ask for fingerprints again? Wouldn't we already have them?	No change proposed at this time. The requirement to provide new fingerprints for extension of a moral character determination beyond the 36-month period is not revised by the proposal. Staff notes however that the FBI does not provide subsequent notice of out-of-state arrests. The resubmission of fingerprints would permit us to determine if there have been any out-of-state or federal arrests in the prior two and a half years. Staff will re-examine this issue further to confirm the need for continuation of this requirement.
	I don't see the point of the phrase "pursuant to the authority delegated to it by the Board Trustees" in Rules 4.1 and 4.56 and perhaps other places. It adds nothing and is inflammatory.	No change proposed. The purpose is to clarify that, as a subentity, the Committee does not have independent authority from the State Bar or Board of Trustees. This language is consistent with Rule of Court 9.3, which provides: "The Committee of Bar Examiners, acting

Comment on Proposed Changes to State Rules Related to CBE and Admissions

Commenter	Comment	State Bar Response
		under authority delegated to it by the State Bar Board of Trustees, is authorized 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 admission requirements.”
Paul Kramer (cont’d)	4.56. Comment withdrawn	No response required.
	Should Rule 4.59 begin “Every general bar exam applicant . . .”?	No change proposed. The requirement to pass the Multistate Professional Responsibility Examination is not limited to general bar exam applicants. See Business & Professions Code section 6060.
	Rule 4.62 – Why do first-year law students who “pass or fail” the First-Year Law Student’s Exam get to see their written exam answers but only the general bar exam applicants who “fail” get to see theirs? This is unchanged but worth reviewing its logic.	No change proposed. This section is unchanged by this rule proposal. Staff note, however, that Business & Professions Code section 6065 authorizes only unsuccessful bar examination applicants to inspect their examination papers.
	10. Rule 4.84(C)(1) – Change “1” to “2.” The first is always going to be a holiday and thus not the actual deadline. Yes, there is a paragraph to cover this, which makes sense for the other dates, which will sometimes fall on weekends. But where we can be clear, why not do so?	No change proposed. January 1 is the date provided in Business & Professions Code section 6060.3.
	Rule 4.90 – (A) – At the end, say “ State Bar or Committee”? (D) – The Committee has delegated to the Subcommittee only those appeals (reviews) which cannot wait until the next scheduled	No change proposed. (A) As the appeal will be reviewed by the Committee, it is appropriate that the Committee would decide if an applicant is allowed additional time beyond ten days to request review.

Comment on Proposed Changes to State Rules Related to CBE and Admissions

Commenter	Comment	State Bar Response
	Committee meeting. This formulation expands the delegation to all appeals, whether or not they could be decided at a regular Committee meeting.	(D) The term used in the proposed language is “time-sensitive.” If there is time to consider the request for review of a Petition for a Testing Accommodation at the regular Committee meeting, the request for review would not be considered “time-sensitive.”

- * Inactive member of the California State Bar; current member, Committee of Bar Examiners; former member (2007-2010) Bar Board of Governors. I make these comments in my individual capacity rather than as a member of or on behalf of the Committee of Bar Examiners. Unfortunately the Committee was not given an opportunity to comment on these regulations affecting its operations but instead, only after hearing that they were being circulated for comment and asking when the Committee would get its chance to discuss them, we were invited to download them from the Bar’s web site and submit individual comments, which I am doing. This is seriously suboptimal and does not lend truth to the recent assertions that changes are being made to the Committee’s responsibilities to free it’s time for “policy making.”

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 2. 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 seven member board consists of the following members, including a chair, and vice-chair, ~~and the immediate past chair~~, each entitled to vote:
- (1) at least five ~~twelve~~ attorney members, ~~up to two of whom need not be certified specialists~~; and
- (2) up to two ~~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; amended effective 2019.

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 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~~working group member considering an application must immediately disclose to the chair of the board or ~~commission~~working group any significant past or present relationship with the applicant, whether familial, professional, political, social, or financial.

(B) A board or ~~commission~~working group 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~~ working group 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~~ working group 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; previously amended effective July 24, 2015; amended effective 2019.

Rule 3.96 Confidentiality

- (A) A certified specialist's certification is public information.
- ~~(A)(B)~~ (B), ~~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)(C)~~ (C) 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)(D)~~ (D) 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; previously amended effective July 24, 2015; amended effective 2019.

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 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; [previously](#) amended effective July 24, 2015; [amended effective 2019](#).

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

⁴ See Rule 1.20(L).

- (3) an applicant fails to complete any other certification application requirement.
- (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 licensee to report to the State Bar.⁶

Rule 3.113 adopted as Rule 3.114 effective January 1, 2014; renumbered effective July 24, 2015; previously amended effective July 24, 2015; amended effective 2019.

Rule 3.114 Education

- (A) ~~Board~~State Bar-approved legal specialist education or ~~board~~State Bar-approved legal specialist 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 State Bar~~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 State Bar ~~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 State Bar~~board~~ may grant specialty education credit for education that meets certification requirements,⁹ inclusive of activities approved for MCLE credit¹⁰ as

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.

well as credit for MCLE requirements for legal ethics, elimination of bias, and competence issues.¹¹

- (D) The State Bar~~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; amended effective 2019.

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 State Bar's~~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; amended effective 2019.

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 State Bar~~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 State Bar~~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; amended effective 2019.

Rule 3.117 References

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

¹¹ Rule 2.72.

¹² Rule 2.86.

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. [The State Bar](#)~~A commission~~ may seek additional references.

Rule 3.117 adopted as Rule 3.118 effective January 1, 2014; renumbered effective July 24, 2015; [previously amended effective July 24, 2015; amended effective 2019.](#)

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 [State Bar](#)~~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; [amended effective 2019.](#)

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 [State Bar](#)~~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.

¹³ Following the process outlined in Rule 3.112.

¹⁴ See Rule 3.111

¹⁵ Rules 3.122-3.124 and 3.126.

Rule 3.119 adopted as Rule 3.124 effective January 1, 2014; renumbered effective July 24, 2015;
 | previously amended effective July 24, 2015; amended effective 2019.

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 or~~ 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 working group member~~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;
 | previously amended effective July 24, 2015; amended effective 2019.

Rule 3.121 State Bar~~Commission~~ action on application

- (A) Within 180 days of receipt of an application, the State Bar~~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

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.

(B) The State Bar ~~A commission~~ must ~~recommend that the board~~ grant or deny certification no later than 180 days after

- (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 State Bar's~~commission's~~ concerns.

Rule 3.121 adopted as Rule 3.120 effective January 1, 2014; renumbered effective July 24, 2015; previously amended effective July 24, 2015; amended effective 2019.

Rule 3.122 Informal conference

(A) An applicant notified of the State Bar's~~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 State Bar~~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 State Bar~~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; amended effective 2019.

Rule 3.123 Request for review of State Bar denial of application and Board action on request for review of the State Bar's denial of application

(A) An applicant notified that the State Bar has denied the applicant's application for certification may request the board to review the decision. Within 120 days of receiving a request for review of the State Bar's denial of ~~commission's recommendation to grant or deny~~application for certification, the board must make a determination to

- (1) grant certification;
- (2) direct the State Bar~~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; previously amended effective July 24, 2015; amended effective 2019.

Rule 3.124 Suspension or revocation of certification

- | (A) Certification may be suspended by the State Bar~~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)~~
 | pPending 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.
- | Certification may otherwise be revoked or suspended by the State Bar~~board~~ for failure to comply with a material requirement of these rules or any relevant standard.¹⁹

¹⁹ Rule of Court 9.35(d).

(B) ~~(C)~~ If the State Bar~~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 State Bar~~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.

(C) ~~(D)~~ 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.

(D) ~~(E)~~ 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; previously amended effective July 24, 2015; amended effective 2019.

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.

Comment on Proposed Changes to Rules Relating to CBLS

Commenter	Comment	State Bar Response
	<p>(Comment related to Rule 3.92 which reference the use of working groups and omit advisory commissions)</p> <p>Notes that certified specialists need to be on the forthcoming Legal Specialist Examination Grading and Development team (LEDG) because they have the specific and current knowledge to ensure exams are appropriate.</p>	No change proposed. Pursuant to proposed Rule 3.116, the State Bar will determine the grading process, including the graders qualifications.
Aurelio Torre, <i>State Bar of California Licensee and Certified Specialist in Appellate</i>	<p>(Comment related to Rule 3.92 which references the use of working groups and omits advisory commissions)</p> <p>Working groups should have a minimum of five volunteers, with a focus on geographical diversity when practical</p>	No change proposed. The composition of the working groups is not addressed in the proposed rules because the working group compositions will be based on the issue being addressed and the availability of the participants.
	<p>(Comment related to Rule 3.92 which references the use of working groups and omits advisory commissions)</p> <p>Working groups should be involved in all primary approvals of certification and recertification applications, with the recommended process below:</p> <ul style="list-style-type: none"> ▪ Staff would initially separate applications into three groups: Complete Complete with 'issues' Incomplete 	The implementation plan presented to the BOT in November 2018 specifically provided that the evaluation of applications for certification would transition to staff, with staff bringing in subject matter experts in a working group to review those applications seeking to meet task and experience requirements through alternative means. In other words, it is anticipated that the State Bar staff will handle the primary approvals.

Comment on Proposed Changes to Rules Relating to CBLS

Commenter	Comment	State Bar Response
	The working group would then get a two-week review period to meet and discuss groups 1 and 2 above. Comments and/or recommendations would be provided to staff, who would then forward applications approved by the staff for CBLS approval.	
The CBLS as an entity	(Comment related to Rule 3.92 which references the use of working groups and omits advisory commissions) Legal Specialist Examination graders should be current or former certified specialists, absent exceptional circumstances. Past participation as an Advisory Commissioner should also be considered when recruiting graders.	No change proposed. Pursuant to proposed Rule 3.116, the State Bar will determine the grading process, including the graders qualifications.



The State Bar of California

Attachment F - Memo to BOT

DATE: April 5, 2019

TO: Members, State Bar of California Board of Trustees

FROM: Members, California Board of Legal Specialization

SUBJECT: COMMENTS REGARDING CALIFORNIA BOARD OF LEGAL SPECIALIZATION STATE BAR RULES REVISIONS (TITLE 3, DIVISION 2, CHAPTER 2 RULE CHANGES)

Members of the California Board of Legal Specialization (CBLs) and the entity as a whole, submit the following feedback to the Board of Trustees regarding the proposed California Board of Legal Specialization State Bar Rules Revisions (Title 3, Division 2, Chapter Rules Changes) under current consideration.

Louis J. Esbin, *State Bar of California Licensee and Certified Specialist in Bankruptcy Law*, made the following comments with respect to the rule modifications (Rules 3.110 & 3.114) that change “member” to “licensee”:

- requests a sunset provision for attorneys to transition to the new nomenclature and further requests consistency across the CA State Bar (referring to current licensees/reconsidering the term ‘Admissions Ceremony’ since members are admitted and not licensees);
- seeks clarification as to whether penalties are planned for licensed attorneys failing to comply with change, such as in using letterhead or business cards referencing members and not licensees; and
- suggests that the CA State Bar conduct public and professional outreach to educate the public, including the judiciary about the change from member to licensee.

Louis J. Esbin, *State Bar of California Licensee and Certified Specialist in Bankruptcy Law*, made the following comments with respect to the proposed changes in Rule 3.92 which reference the use of working groups and omit advisory commissions:

- recommends adding a question regarding any pending malpractice cases to the certification and recertification applications; and
 - notes that certified specialists need to be on the forthcoming Legal Specialist Examination Grading and Development team (LEDG) because they have the specific and current knowledge to ensure exams are appropriate.
-

Aurelio Torre, *State Bar of California Licensee and Certified Specialist in Appellate Law*, made the following comments with respect to the proposed changes in Rule 3.92 which reference the use of working groups and omit advisory commissions:

- working groups should have a minimum of five volunteers, with a focus on geographical diversity when practical; and
- working groups should be involved in all primary approvals of certification and recertification applications, with the recommended process below:
 - Staff would initially separate applications into three groups:
 1. Complete
 2. Complete with 'issues'
 3. Incomplete

The working group would then get a two-week review period to meet and discuss groups 1 and 2 above. Comments and/or recommendations would be provided to staff, who would then forward applications approved by the staff for CBLS approval.

The following comments are submitted from the CBLS as an entity with respect to the proposed changes in Rule 3.92 which reference the use of working groups and omit advisory commissions:

- Legal Specialist Examination graders should be current or former certified specialists, absent exceptional circumstances. Past participation as an Advisory Commissioner should also be considered when recruiting graders.

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 3-100.

- (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 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 Neither a~~ presiding arbitrator; ~~nor an~~ assistant presiding arbitrator; ~~or a member of the Committee on Mandatory Fee Arbitration~~ may ~~not~~ represent a party in a State Bar fee arbitration while serving in these roles.
- (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 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

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~~ five members who serve at its pleasure or until the expiration of a term set by the Board. ~~Four~~ Three 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~~ Manager of the Office of the Client Security Fund and any other staff who serve as counsel (collectively “Fund Counsel”) must be active ~~members~~ licensees of the State Bar ~~and represent the interests of the Commission and those of the Fund.~~ In these rules, ~~Director~~ Manager may also mean the ~~Director’s~~ Manager’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 and/or Fund Counsel ~~have~~ has ~~the 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

² See Rule 3.431.

³ See Rule 3.432.

⁴ Rule 3.420(C).

failure constitutes a wrongful taking or conversion. All other instances of an 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 or Fund Counsel may waive provision (A) of this rule: pursuant to guidelines set by the Commission.

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 and/or Fund Counsel may deny reimbursement in whole or in part for any reason, including, but not limited to, 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 and/or Fund Counsel 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 ~~C~~counsel may close it without prejudice, issue a Notice of Intention to Pay,⁵ or issue a submit it to the Commission for Tentative Decision on behalf of the Commission. If Fund Counsel intends to issue a Tentative Decision, counsel may postpone doing so until the conclusion of any related disciplinary proceeding either pending or contemplated.
- (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 ~~187~~ 5.70 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~~ Fund 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~~ Fund 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, Fund Counsel, under guidelines set by 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.

⁵ See Rule 3.442.

⁶ Code of Civil Procedure § 2015.5.

- (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.
- (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~~ Manager may issue the notice provided an applicant has
 - (1) submitted a complete application in accordance with instructions;
 - (2) submitted documentation sufficient to confirming confirm 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 with the State Bar's Office of Chief Trial Counsel, unless the ~~Director~~ Manager 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) Tentative Decisions will be issued by Fund Counsel. 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 and/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) Notwithstanding the provisions of Rule 3.421 (A), supra, if the Fund receives no timely written objections, a Tentative Decision issued by Fund Counsel may be deemed a Final Decision.

Rule 3.443 adopted effective January 1, 2010.

Rule 3.444 Final Decisions

- (A) In a matter where a timely written objection to a Tentative Decision is received, the Commission will issue a Final Decision ~~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

⁷ Code of Civil Procedure § 2015.5.

⁸ Code of Civil Procedure § 2015.5.

- (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

- (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~~ or a 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

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

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

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.

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

- (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 have been filed.
- (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.

Comment on Proposed Changes to State Bar Rules Related to the Client Security Fund

Commenter	Comment	State Bar Response
Raymond Paul Harris, an Individual	<p>Comment unrelated to the substance of the rule proposal. Comment entitled:</p> <p>Policy Comment: Governmental Unlawful/False Arrest / Human trafficking; Judicial Abuse of Discretion and on bench abuse of Judicial Powers; Attorneys Breach of Fiduciary Duties of Trust assets, Contract, and Monies; Governmental seizure of Person and Property of a Lawful Trust; Diversion of funds, refusing to account; embezzlement; Conversion of real properties Title; defrauding Lawful Trust and Powers Of Attorneys for Healthcare and Financial Decisions; Basic Civil Liberties Rights; Cruel and Unusual Punishment; The deliberate denial of medical aid and life prolonging drugs to prevent prolonging Life and Dignity Abuses of the Trinity County Public Probate Administrators and Court Referees; The unlawful Defamation/ changing the “Successor” of this Trust so as to pilfer Trust Funds and income for friends and business associates/Attorneys, by way of questionable attorneys fees, fabrication of Legal Cases, generated out of the conduct of associate attorneys in order vandalism this Trust portfolio assets for selfish financial gain; Obstruction of Justice and access to Justice.</p>	No response required.

Proposed Amendments to the Rules of the State Bar
Regarding Accreditation of Qualifying Law Schools
Offering Distance Learning J.D. Programs
Title 4. Admissions and Educational Standards
Division 2. Accredited Law School Rules
[3/19/19]

Chapter 1. General Provisions

Rule 4.105 Definitions

- (A) “Admissions Rules” are the rules contained in Title 4, Division 1 of the Rules of the State Bar of California (Admissions Rules).
- (B) 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.
- (C) A “California accredited law school” is a law school that has been provisionally or fully accredited by the Committee.
- (D) “Provisional accreditation” is the status of a provisionally accredited law school. The Committee grants provisional accreditation for a specific period.
- (E) A “provisionally accredited law school” is a registered unaccredited ~~fixed-facility~~ law school that is pursuing accreditation and has been recognized by the Committee as being in substantial compliance with applicable law and these rules.
- (F) “The Committee” is the Committee of Bar Examiners of the State Bar of California.
- (G) The “First-Year Law Students’ Examination” is the examination required by statute and by Division 1. Admission to Practice Law in California Admission to Practice Law in California rules.
- (H) The “guidelines” are the Guidelines for Accredited Law School Rules adopted by the Committee of Bar Examiners.
- (I) “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.
- (J) A “major change” is one of the changes specified in rule 4.165, Major changes.
- (K) 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.

- (L) A “California registered unaccredited law school” is an unaccredited law school that has been registered by the Committee.
- (M) “Senior Executive” means “Senior Executive, Admissions” or that person’s designee.
- (N) 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.
 - (1) An “unaccredited correspondence law school” is an unaccredited 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) An “unaccredited distance-learning law school” is an unaccredited 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.
 - (3) An “unaccredited fixed-facility law school” is an unaccredited law school that conducts its instruction principally in physical classroom facilities. An unaccredited fixed-facility law school must require classroom attendance of its students for a minimum of 270 hours a year for four years.

Rule 4.105 adopted effective January 1, 2009.

Rule 4.106 Lists of law schools

The Committee maintains lists of law schools operating in California: those provisionally and fully 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 4.106 adopted effective January 1, 2009.

Chapter 2. Application for Provisional Accreditation

Rule 4.120 Application based on substantial compliance

A registered unaccredited ~~fixed-facility~~ law school that meets the standards set forth in rule 4.160 may apply for provisional accreditation. If the Committee grants provisional accreditation, the provisionally accredited law school is subject to annual inspection and its students are subject to the First-Year Law Students' Examination requirement. The Committee grants provisional accreditation for a specified period, typically for two years, although the period may be shorter or longer as may be determined by the Committee.

Rule 4.120 adopted effective January 1, 2009.

Rule 4.121 Application procedure

A registered unaccredited ~~fixed-facility~~ law school may apply for provisional accreditation by

- (A) completing and submitting the Application for Provisional Accreditation with the fee set forth in the Schedule of Charges and Deadlines;
- (B) submitting a self-study of its educational program and other information as required by the Committee;
- (C) agreeing to allow the Committee to make any inspection it deems necessary; and
- (D) agreeing to promptly pay all expenses of the inspection.

Rule 4.121 adopted effective January 1, 2009.

**Proposed Amendments to the
Guidelines for Accredited Law Schools
Regarding Accreditation of Qualifying Law Schools
Offering Distance Learning J.D. Programs
[3/19/19]**

Division 1. General Provisions

1.1 Provisional Accreditation, Accreditation, and Degree-Granting Authority.

(A) General Provision

To obtain provisional accreditation and receive degree-granting authority from the Committee of Bar Examiners (Committee), a registered unaccredited ~~fixed-facility~~ law school must establish its substantial compliance with the *Accredited Law School Rules (Rules)*. To obtain accreditation and receive degree-granting authority from the Committee, a provisionally-accredited law school must establish its compliance with the Rules.

(B) Transition of Registered Law Schools.

(1) Application for Provisional Accreditation, and Accreditation

A law school seeking to become provisionally or fully accredited is required to complete a self-study, an application and pay a fee. The Office of Admissions will provide forms for each such application on its website.

(2) Processing of Applications, Decision on Application.

Upon filing of an application for provisional accreditation or accreditation by a registered law school, the Committee may appoint an inspection team to visit the school within sixty (60) days of the filing date and produce a report to be delivered to the Committee staff and the school within sixty (60) days after the fact-finding site visit. The school will have thirty (30) days to respond to the fact finder report. The Committee will consider the school's application for provisional accreditation or accreditation at its next regularly scheduled meeting following expiration of the comment period. At that meeting, the Committee may approve the application, approve the application with conditions, deny the application, or determine that further fact finding is required. If further fact finding is required, the Committee may appoint an inspection team to visit the school within sixty (60) days of the Committee decision and produce a report to be submitted to the Committee staff and the law school within sixty (60) days after the second fact-finding site visit. the school will have thirty (30) days thereafter to respond to the fact finder's report. The Committee will consider the school's application for

provisional accreditation or accreditation, with the findings of both fact finders, at its next regularly scheduled meeting following expiration of the comment period. At that meeting, the Committee may approve the application with conditions, or deny the application.

(C) Site Visit

Prior to full accreditation, a provisionally-accredited law school seeking accreditation will be visited by an inspection team chosen by the Committee. A site visit conducted prior to the law school's application for provisional-accreditation satisfies this requirement if conducted within three (3) years of the application and the fact-finder's report verifies that relevant conditions are substantially the same since the prior site visit.

(D) Program Transition.

(1) Program Transition Plan.

A law school seeking provisional accreditation or accreditation will include in the application a plan for program transition. The program transition plan will address such issues as a school's calendar, term structure, credit, course scheduling, attendance requirements, curricular requirements, teach-out or programs no longer to be offered, and other matters necessary for students to transition to the accredited program of the law school.

(2) Teach-Out Limitations.

A law school granted provisional accreditation or accreditation may allow currently-enrolled students to complete the program in which they are then enrolled, or allow students to transition, at an academically-appropriate time, to a new program designed to comply with the Rules and Guidelines for Accredited Law Schools. A school allowing currently-enrolled students to complete the program they are then enrolled in at the time of accreditation must ensure teach-out of all students enrolled.

(3) New Enrollment in Accredited Program.

A law school granted provisional accreditation or accreditation must, within one year after the effective date of receiving such provisional accreditation or accreditation, enroll all new students into the program granted said accreditation.

Guideline 1.1 amended effective _____.

Division 2. Honesty and Integrity

2.3 Honesty in Communications.

(A) Honesty in Communications Generally.

A law school must be honest and forthright in all communications, including communications with the Committee, the legal profession, the public, prospective students, applicants, and students.

(B) Honesty in Communications with Students.

A law school must be honest and forthright in all communications with students. It must not mislead students as to their reasonable prospects of obtaining the degree in the program in which they are enrolled, their ability to qualify for or be admitted to the bar in any jurisdiction, the cost of the requirements for obtaining the degree in the program in which they are enrolled, or the financial support available through loans or scholarships for their course of study.

(C) Honesty in Communications with Prospective Students and Applicants.

A law school must be honest and forthright in all communications with prospective students and applicants. It must not mislead them as to their reasonable prospects of admission, obtaining the degree in the program in which they seek to enroll, their ability to qualify for or be admitted to the bar in any jurisdiction, the cost of the requirements for obtaining the degree in the program in which they are interested in enrolling or seek to be enrolled, or the financial support available through loans or scholarships for their course of study.

(D) Required Disclosures

(1) An accredited law school must include the following statement, without alteration, in either its course catalog or student handbook (electronic or hardcopy) and on a discrete page readily accessible to the public found on the law school's website entitled "Accreditation" on which the law school refers to its status as being accredited by the Committee and any other regional or national accrediting entity or agency:

Study at, or graduation from, this law school may not qualify a student to take the bar examination or be admitted to practice law in jurisdictions other than California. A student who intends to seek admission to practice law outside of California should contact the admitting authority in that jurisdiction for information regarding its education and admission requirements.

The type size of the foregoing disclosure must be at least as large as the type size used to discuss or explain its status as an accredited school or college of law.

(2) An accredited law school must publish on its “Accreditation” webpage information relating to the pass rates of its graduates on the ten most recent published in one of the following ways:

- (a) By means of posting an active link to the California Bar Examination “Statistics” page of the State Bar’s website; or, alternatively;
- (b) By means of posting the pass rates of its graduates as those published on the State Bar’s website for the ten most recent administrations of the California Bar Examination.

In all hardcopy or electronic materials used to respond to all inquiries about admission to its J.D. degree program, the law school must provide the following statement in all such materials: “For additional information visit [insert law school’s website].”

(3) An accredited law school must publish on its Accreditation webpage a standardized report, in a format determined by the Committee, all of the disclosure information required by Business and Professions Code § 6061.7. All information in the standardized report must be complete, accurate and not misleading. An accredited law school must submit its standardized report with its Annual Compliance Report required by Rule 4.161. An accredited law school must distribute the standardized report to all applicants being offered conditional scholarships at the time the scholarship offer is made.

In addition, a law school must provide disclosures in compliance with California law, including Business and Professions Code section 6061.7.

Guideline 2.3(D)(3) adopted, effective December 3, 2016; amended effective

- (E) Reference to Provisional Accreditation and Accreditation; Reference to Other Accreditations, Approvals and Memberships.

(1) If a law school is granted provisional accreditation, it may make reference to such fact in its communications, provided that in any written or electronic publication in which reference to provisional accreditation is made, the following statement must appear, without alteration, on the same page, and in the same size type:

“The Committee of Bar Examiners of the State Bar of California grants provisional accreditation to a registered unaccredited ~~fixed-facility~~ law school when the law school establishes that it substantially complies with the Accredited Law School Rules (Rules) and appears capable of qualifying for accreditation within five years from the time provisional accreditation is granted. Provisional accreditation will automatically expire if the law school does not qualify for and receive accreditation within the time period specified by the Committee or secure an extension of time. Provisional accreditation may be withdrawn at any time, if the Committee finds that the law school no longer substantially complies with the Rules.”

Whenever the words "Accredited" or "Provisionally Accredited" appear in law school communications in relation to qualification to take the California Bar Examination or admission to the practice of law in California, they must be accompanied by words clearly indicating that such accreditation is by the Committee of Bar Examiners of The State Bar of California.

(2) A law school that is accredited or approved by another agency or is a member of an association may state that fact in any communication, but must indicate in connection with any such statement that its degree-granting authority in connection with its students qualifying to take the California Bar Examination and obtain admission to the practice of law in California is based on accreditation by the Committee of Bar Examiners of The State Bar of California.

Guideline 2.3(E)(1) amended effective _____.

Division 6. Academic Program

6.5 Quantitative Academic Requirements.

- (A) Minimum Requirements for the Juris Doctor Degree; ~~Hours and Weeks of Study;~~
Time Requirements for Completion of Course of Study.

The minimum requirements for the J.D. degree ~~is the~~ are satisfactory completion of a course of study requiring 1,200 hours of verified academic engagement with a law school's facility and curriculum. ~~study, The 1,200 hours of academic engagement must be earned through completion of no fewer than eighty semester units or their equivalent, with each semester unit requiring a minimum of 45 hours of student work, including both academic engagement and preparation, of which a minimum of 15 hours must be academic engagement verified as prescribed by these Guidelines in residence, or study as permitted by guideline 6.6, extending over a period of not less than ninety weeks of full-time study or 120 weeks of part-time study, or a combination thereof. Final examination time, not exceeding ten percent of the total number of class session hours, may be included as class session hours, and counted toward the 1,200-hour requirement.~~ A law school must require the course of study for the J.D. degree be completed no earlier than thirty-two months and no later than eighty-four months after a student has commenced law study at the law school or a law school from which the law school has accepted transfer credit.

(B) Academic Engagement.

For purposes of this section, "academic engagement" includes instruction in a compliant Juris Doctor degree curriculum offered through any of the following means: (a) student attendance in a physical classroom; (b) student participation in a synchronous or asynchronous curriculum offered through distance-learning technology; (c) a combination of academic engagement offered through (a) and (b). Academic engagement may include up to 120 hours of student participation in an experiential or clinical program approved under Guideline 6.6. Final examination time, not exceeding ten percent of the total number of hours of academic engagement, may be included as academic engagement hours, and counted toward the 1,200 hour requirement.

(C)(B) Attendance.

Regular and punctual attendance in academic engagement is required ~~to satisfy the residence credit requirement and the 1,200-hour requirement.~~ A law school must have a written ~~attendance~~ policy that requires the verifiable academic engagement of each of its ~~which must require regular and punctual attendance of students. The policy must require completion of attendance at not less than eighty percent of the academic engagement in regularly scheduled class hours or not less than eighty percent of the minimum number of hours of other types of academic engagement required~~ in each course in which the a student is enrolled.

The policy must also include requirements to verify student participation in an approved experiential or clinical program. The policy may also include requirements regarding preparation and participation.

(D)(4) Curriculum.

(1) A law school requiring student attendance in a physical classroom must use either semester or quarter terms of study (regular academic term) or their equivalent as defined in Guideline 6.5(A), and may offer a summer session of not less than five weeks for semester-based law schools and three weeks for quarter-based law schools. A summer session is an academic term but not a regular academic term, except as provided in Guideline 7.3(C). Typically, a semester must be fourteen or more weeks in length and a quarter must be ten or more weeks in length. ~~The curriculum must be offered and units counted toward the degree and graduation only in semester or quarter units or their equivalent.~~ Typically, for credit earned through attendance in a physical classroom, one semester unit for a fifteen-week semester is fifteen hours of classroom instruction for one hour per week for fifteen weeks, including final examination time not greater than ten percent of the total time. Typically, one quarter unit for a ten-week quarter is ten hours of classroom instruction for one hour per week for ten weeks, including final examination time not greater than ten percent of the total time. Courses may be offered in one or more semester or quarter units or their equivalent.

(2) ~~A law school may offer a summer session of not less than five weeks, for semester-based law schools, and three weeks, for quarter-based law schools. A summer session is an academic term, but not a regular academic term, except as provided in guideline 7.3(C).~~ For students earning credit for academic engagement through participation in an approved synchronous or asynchronous curriculum taught through distance-learning technology or by participation in an experiential or clinical program approved under Guideline 6.6, or a combination thereof, semester or their equivalent quarter units of credit may be earned during an entire calendar year as authorized by Guideline 6.5(A).

(3) One hour of classroom instruction is defined as fifty minutes of instruction.

(E)(C) Full-time Students.

In order for a full-time student, must complete not less than 1,200 hours of study in residence, extending over a period of not less than ninety weeks, and, to

receive full ~~residence~~ credit for any academic term, the student must have been enrolled in, and receive credit for, a course of study requiring not less than ten hours of verified academic engagement attendance a each week and ~~must have received credit for courses totaling not less than nine hours of attendance a week~~ during that academic term.

(F)~~(D)~~ Part-time Students.

In order for a~~A part-time student, must complete not less than 1,200 hours of study in residence extending over a period of not less than 120 weeks and, to~~ receive full ~~residence~~ credit for any academic term, the student must have been enrolled in, and received credit for, a course of study requiring not less than six ~~eight~~ hours of verified academic engagement attendance a each week and ~~must have received credit for courses totaling not less than eight hours of credit a week~~ during that academic term.

(G)~~(E)~~ Combining Study at Accredited and Registered Unaccredited Law Schools.

Students who obtain a portion of their legal education at a registered unaccredited law school and a portion at an accredited law school present a special case. Unless such students actually graduate from an accredited law school and premise their eligibility to take the California Bar Examination upon that graduation, they must meet the alternative legal educational requirements of §6060(e)(2)(E) of the Business and Professions Code in order to be eligible to take that examination. § 6060(e)(2)(E) requires four separate years of study in a law school (accredited or unaccredited), in each of which the student was enrolled in a course of study requiring at least 270 hours of classroom attendance. For this purpose, a “year” is any period of twelve consecutive months. Law schools allowing students to carry a lighter than usual course load during any twelve-month period should be aware of these implications should such students ultimately seek eligibility to take the California Bar Examination under the above four-year rule rather than as graduates of an accredited law school.

(H)~~(F)~~ Graduates of Accredited Law Schools Who Completed Portion of Legal Studies at Registered Unaccredited Law Schools.

Students who complete a portion of their legal studies at a registered unaccredited law school and subsequently graduate from an accredited law school must in all events meet the guideline 6.5(A) requirements concerning

1,200 hours of study ~~in residency (through required hours of classroom study~~ in courses taken at both accredited and registered unaccredited law schools, in the aggregate) in order to be eligible to take the California Bar Examination as a graduate of an accredited law school.

(I)~~(G)~~ Proportionate Credit.

(1) If, in any academic term, a student was not enrolled in, or failed to receive credit for, the minimum number of hours specified in guideline 6.5~~(C)~~(E) or ~~(D)~~(F), the student may receive only proportionate credit for study ~~in residence~~ for that academic term. The proportion is the ratio of hours enrolled or credit received to the minimum specified.

(2) If a person was a part-time student for any portion of the period of law study and a full-time student for the remaining portion of law study, the number of weeks of full-time study and three-fourths of the number of weeks of part-time study must total not less than ninety.

(J)~~(H)~~ Range of Course Load for Full-time and Part-time Students; Exceptions.

In any regular academic term, a full-time student should normally be enrolled in courses requiring ~~classroom attendance~~ verified academic engagement of not more than fifteen hours or less than ten hours per week. A part-time student should normally be enrolled in courses requiring ~~classroom attendance~~ of not more than ten hours or less than six hours per week. A law school may, for good cause, allow a person to enroll in courses requiring more or less hours than those specified, but in each case must enter in the student's file a memorandum stating the considerations constituting good cause. A full-time student is one who devotes substantially all working hours to the study of law. Full-time students should be encouraged not to work in excess of twenty hours a per week.

(K)~~(J)~~ Required Course Books.

For each course, other than special seminars, each student enrolled should be required to obtain one or more specified books. A law school must use current, recognized books or other materials in each of its courses.

(L)~~(K)~~ Course Outlines or Syllabi.

Students must be furnished, prior to the beginning of each course, with a written outline or syllabus of the organization of the course and the order in which material is to be read and prepared. Course outlines and syllabi will be considered in evaluating the instructor's knowledge and organization of the material.

(M)(L) Instructional Formats.

No particular format of instruction is required and instructors may use lectures, the case method, the problem method, directed study or other techniques, alone or in any combination.

(M)(N) Class Size.

Class size must be reasonable to assure teaching effectiveness. In determining the reasonableness of the size of any class, the following matters are considered:

(1) For schools offering academic engagement by attendance in a physical classroom The physical facilities and whether the room is appropriate for the number of students;

(2) The subject matter of the course and the methods of instruction; and

(3) The number and competence of the individual instructors when a course is offered in multiple sections.

Small classes are desirable as they facilitate greater participation by each student and a closer relationship between students and instructors. If a law school divides any course into sections, it must adopt procedures to ensure the quality of instruction across all sections of the same course and consistency in instruction, examinations, and grading.

Guideline 6.5 amended effective _____.

Division 7. Scholastic Standards

7.11 Distance-Education Credit.

~~(A)~~ A law school may offer any amount of academic engagement entitled to earn credit under Guideline 6.5(A) and may do so through the use of any form of distance-learning technology approved by this Guideline. ~~grant up to twelve distance-education semester credit units or the equivalent in quarter credit units toward its J.D. degree and other professional law degree programs.~~

~~(A)(B)~~ For purposes of this guideline, “distance-education” is approved and defined as any and all instruction that earns credit for academic engagement taught through any of the following technological means: ~~a course in which more than one-third of the instruction is provided by means of:~~

Any electronic, technological transmission, whether through the Internet in a synchronous or asynchronous mode, or any electronically-stored or recorded media, whether by audio or video presentation.

~~(1) Technological transmission, whether by the Internet, open broadcast, closed circuit, cable, microwave, satellite, or otherwise;~~

~~(2) Audio or computer conferencing;~~

~~(3) Audio or video cassettes, discs, or other electronic media; or~~

~~(4) Correspondence.~~

~~(B)(C)~~ For purposes of this guideline, students may earn credit toward the 1,200 hours of verified academic engagement, as defined by Guideline 6.5(A), using distance learning technology through any of the following: (1) participating in a synchronous class session; (2) viewing and listening to recorded classes or lectures; (3) participating in a live or recorded webinar offered by the law school; (4) participating in any synchronous or asynchronous academic assignment in any class monitored by a faculty member; (5) taking an examination, quiz or timed writing assignment; (6) completing an interactive tutorial or computer-assisted instruction; (7) conducting legal research assigned as part of the curriculum in any class; and (8) participating in any portion of an approved clinical or experiential class or activity offered through distance learning technology. ~~To be eligible to receive distance-education credits, a student must be currently enrolled and in good academic standing. An auditor or visitor may participate in distance-education courses, subject to the requirements of Guideline 7.12.~~

If a law school counts other synchronous or asynchronous activities toward the 1,200-hour academic engagement requirement, such activities should be substantially similar

to or exceed the listed examples in terms of the nature and scope of interaction and communication between the students and the curriculum and faculty.

~~(C)(D)~~ Law schools must verify the minimum required academic engagement for the J.D. degree delivered through distance learning technology. Law schools may comply with this requirement by either: A law school's acceptance of distance education credit as transfer credit is subject to the requirements of guidelines 5.7 and 5.8.

(1) Establishing and documenting a curriculum requiring the minimum number of hours of academic engagement required by Guideline 6.5(a); or

(2) Documenting completion of the minimum number of hours of actual academic engagement by each student.

The documentation of a compliant curriculum required by subsection (C)(1) must include the intended or expected time for completion of each activity or assignment considered academic engagement, and such time must reasonably approximate the actual time required for completion of the activity or engagement. A school may establish the reliability of the time estimate by logs, time studies, research or by reference to externally documented standards.

The documentation of academic engagement by individual students permitted by subsection (C)(2) must establish the actual time spent by each student on assigned academic engagement activities. Documentation of actual academic engagement may be accomplished by technological or other means, but must include a reliable methodology for recording time actually spent by the student.

~~(E) A law school may award credit for a distance education course if:~~

~~(1) The academic content, the method of course delivery, and the method of evaluating student performance are evaluated and approved as part of the law school's regular curriculum approval process;~~

~~(2) A structured format for interaction with the instructor and other students is available during the course; and~~

~~(3) A method for monitoring and recording student participation, effort, and accomplishment is integrated into the course methodology.~~

~~(F) A law school's approval of credit for a distance education course must include a specific explanation of how the course credit was determined. Credit awarded must meet the requirement of fifteen contact hours of instruction for each semester credit granted or the equivalent in quarter units.~~

~~(G) Distance education courses must be graded on the same basis as classroom-based courses.~~

Guideline 7.11 amended effective _____; previously a~~Amended~~, effective: August 28, 2015.

Division 8. Library Requirements

Division 8. adopted effective January 1, 2011.

8.1 Library Resources.

A law school's library resources must serve the teaching, research, and other educational objectives of the law school. In preparation for admission to practice law, a law student must have the ability to perform legal research competently using both hard copy and electronic research resources. The faculty of a law school needs access to adequate legal research resources to supplement their preparation and research.

8.2 Law Library.

~~A law school must maintain a physical law library containing all required hard copy and optional electronic resources, including internet access. A law school's law library must be adequate for the number of students and faculty of the law school. The adequacy of a law library will be evaluated by consideration of a law school's enrollment, the physical layout of the library, the physical condition of all hard copy publications and whether all are properly current and updated, relevance of all other available legal resources and the hours of operation.~~

8.3 Location of Law School Law Library.

~~The law school's law library must be housed in the same physical location as the law school's classrooms, faculty and administrative offices or in a location that is in reasonably close proximity to the law school's classrooms and offices. A law school is not required to have a law librarian but must assign a competent administrator or staff person to oversee and be responsible for maintaining and updating all mandatory legal~~

~~authorities and research resources. Other uses of a law school's law library should not substantially interfere with its principal purpose.~~

~~A compliant law library should:~~

~~(A) Be open for a reasonable number of daytime and evening hours during the school year to meet the needs of students and faculty; and,~~

~~(B) Be maintained by a competent staff that keeps all library materials properly shelved and accessible and, upon request, to provide reasonably timely assistance, and to maintain all required records.~~

8.28.4 Library Content.

(A) A law school's law library must contain the following law library material:

TITLE	FORMAT REQUIREMENT
1. <u>General National Materials</u> Corpus Juris Secundum or American Jurisprudence, 2d	Hard copy or online access.
2. <u>Dictionaries</u> A legal dictionary A general dictionary	Hard copy <u>or online access.</u>
3. <u>Annotated Reports</u> American Law Reports – Federal American Law Reports, 4th and 5th	Hard copy or online access.
4. <u>American Law Institute Publications</u> Model Codes, Reports and Drafts Restatements of the Law, Reports and Drafts	Hard copy or online access.
5. <u>Forms of Pleading and Practice and Legal Forms</u> California Judicial Council forms Current set of California forms	Hard copy or online access.

Current set of Federal forms	
6. <u>Uniform Laws Annotated</u>	Hard copy or online access.
7. <u>California Materials</u> California Supreme Court case reports (official or unofficial) California Appellate Courts case reports (official or unofficial) West's Digest California Jurisprudence, 3rd West's or Deering's Annotated Codes, including indices California Jury Instructions, Civil (BAJI) California Jury Instructions, Criminal (CALJIC) Law Commission Reports Attorney General Opinions California Code of Regulations	Hard copy or online access, is required to the current series of either the Supreme Court or Appellate Courts case reports; hard copy or online access is required to California case reports at both levels. Hard copy or online access. Hard copy or Online access, or hard copy, except that hard copy access must be provided for California Code titles in bar tested subjects, as follows: Business and Professions Constitution Civil Civil Procedure Commercial Court Rules Corporations Evidence Family Penal Probate Code. Hard copy or online access.
8. <u>Federal Materials</u> United States Supreme Court cases, any set	Hard copy or online access.

<p>Federal Reporter, 1st through 3rd Federal Supplement Federal Rules Decisions Tax Court cases Board of Tax Appeals decisions Federal Digest Supreme Court Digest Annotated edition of U.S. Code United States Statutes at Large Code of Federal Regulations Loose leaf Tax Service</p>	<p>Hard copy or online access</p>
<p>9. <u>National Reporter System</u> (1st to date) for all of the following: Atlantic Reporter, New York Official Reports Northeastern Reporter Northwestern Reporter Pacific Reporter Southeastern Reporter Southern Reporter Southwestern Reporter</p>	<p>Hard copy or online access.</p>
<p>10. <u>Text and Treatises</u> Encyclopedia, treatises, or current text for all bar- tested courses taught Witkin, Summary of California Law Witkin, California Procedure Witkin, California Criminal Law Witkin, California Evidence</p>	<p>Hard copy <u>or online access</u>.</p>
<p>11. <u>Law Reviews and Journals</u></p>	<p>Hard copy or online access, adequate to meet the mission of the law school and the needs of the instructors.</p>
<p>12. <u>Other Resources</u> Current Law Index or Index to Legal Periodicals Local county and city ordinances Local municipal codes Legislative history-United States Code, Congressional and Administrative News (USCCAAN) Local court rules</p>	<p>Hard copy or online access.</p>

13. <u>Cite Checking Resources</u> Shepard's Citation Service or Westlaw Key Cite	Hard copy or online access.
---	-----------------------------

~~Guideline 8.4, amended effective: January 31, 2013; amended effective: June 20, 2015~~

- (B) Whenever a school elects to maintain a set of books in lieu of online access is specified, the requirement includes the most recent version, although it may not be listed, and reasonable access to:
- (1) All supporting materials published as part of the set, and the latest available pocket parts, supplementary and replacement volumes, and any other materials necessary to keep the set in current condition; and
 - (2) All periodicals, in permanently bound form, except for the current year.
- ~~(C) — For material that may be provided online, the law library must have a reasonable number of computers and printers available for student and faculty use in accessing and printing it.~~

Guideline 8.4 amended effective _____ ; previously amended effective June 20, 2015 and January 31, 2013.

8.3 ~~8.5~~ Instruction in Legal Research.

A law school must provide students with instruction in the use of both hard copy publications and electronic-based legal research to learn and perform competent research.

8.4 ~~8.6~~ Other Law Libraries.

Upon prior approval of the Committee, a law school that is located in reasonable proximity to a public, private or other law library, which contains all the mandatory requirements of Guideline 8.4, may satisfy the library requirements as set forth in Division 8 by filing a declaration from the dean that confirms the following:

- A) the governing authorities of any such other law library have agreed to permit the use of the library by the law school's students and faculty at no additional charge and under the same accessibility and conditions required by Guideline 8.3; and

- B) the other library contains and offers equal access to all mandatory library contents as required by Guideline 8.4.

8.5 ~~8.7~~ Access to Online Law Library Material.

A law school must provide each law student with access to the online law library material it maintains during the student's attendance. Access must be available at times convenient to students. A law school must use a reliable provider of on-line services and support to ensure that the students' access to the online library material is consistently available.

8.6 ~~8.8~~ Library Records.

A law school must maintain a record of expenditures for hard copy and electronic library and research materials and other legal research resources provided to students and faculty, and information on restrictions and limitations on access to library or research materials.

Division 9. Physical Resources

9.1 Physical and Infrastructure Requirements.

A law school must have physical and technological resources and an infrastructure adequate for its programs and operations. A law school should have the exclusive occupancy of an office ~~and law library facilities at all times~~ and of classrooms, which must also be available for a reasonable time before and after class. A law school may share classroom space with another department or institution if the arrangements do not interfere with the scheduling of classes. All physical facilities must be in reasonable proximity to each other so that students have convenient access to classrooms, the library, and administrative offices. A law school must have classrooms that are sufficient for its program and adequate for their intended use.

A law school offering its curriculum by means of distance learning technology must maintain its administrative office and administer its technology platform in California. A law school must maintain and provide access to all required records, files and materials in its administrative office.

Guideline 9.1 amended effective _____.

9.2 Administrative and Faculty Offices.

A fixed facility law school must provide adequate office space for all administrative staff and faculty, giving due regard for the need for private offices for senior administrators and full-time faculty. Private offices or a faculty lounge should be provided for part-time faculty. At least one private room, suitable in size for the intended purpose, must be available for counseling students.

Guideline 9.2 amended effective _____.

9.3 Instructional Equipment; Resources and Procedures to Address Technology-Related Problems.

A law school must have and maintain instructional equipment and distance learning technology that is adequate to support its educational program. A law school must have and allocate adequate resources and create and maintain adequate procedures to promptly and effectively address technology-related problems in the delivery of its educational program.

Guideline 9.3 amended effective _____.