



The State Bar *of California*

# Attorney Civility: Status Update and Discussion of Proposed Changes to Attorney Oath Requirements

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# Presentation Overview

1. Provide an overview of the California Civility Task Force recommendations
2. Discuss status of potential changes to rules and other requirements to promote and improve attorney civility
3. Discuss possible revisions to California Rules of Court, rule 9.7 – the attorney oath to inform proposal to be brought to Board in November



# Report & Recommendations



# The California Civility Task Force Report

- The California Civility Task Force (CCTF) is a joint project of the California Judges Association and the California Lawyers Association
  - Task Force included a diverse group of lawyers and judges from throughout the state.
- CCTF reported that:
  - Incivility increases:
    - stress and job dissatisfaction among lawyers and judges, which may contribute to mistakes, burnout, or substance abuse by lawyers; and
    - costs and delays in litigation and legal transactions, thereby increasing costs for the public.
  - Incivility can be a manifestation of bias.



## Four Recommendations

- 3 affecting attorneys
- 1 affecting judges

- **Attorneys**

- One hour of MCLE devoted to civility training as part of the existing 25-hour MCLE requirement;
- Revise the Rules of Professional Conduct; and
- Require all lawyers, to take the attorney oath with the civility language: "As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity."

- **Judges**

- Training for judges on modeling civility and curtailing attorney incivility, inside and outside the courtroom.



## Status of Attorney-Related Recommendations

- MCLE Requirements – with staff for evaluation and recommendation
- Rules of Professional Conduct – with COPRAC for evaluation and recommendation
- Rules of Court – options for possible amendment presented today

It is anticipated that recommendations for all CCTF-related recommendations will be presented to Board of Trustees at November 2022 meeting with a request that such recommendations be issued for public comment.



# Possible Revisions to Attorney Oath Requirements





# Current Attorney Oath

- **California Rules of Court, rule 9.7**

- Since adopted, requires all attorneys to take the attorney oath with civility language:

I, (licensee name) solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of any attorney and counselor at law to the best of my knowledge and ability. **As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity.**

- **Total licensees:**

- **Approx. 238,000 licensees (150,000 active) who took the oath without civility language**
- **Approx. 48,000 licensees (45,500 active) who took the oath with the civility language**





### Possible Changes to Oath Requirements

	Option 1	Option 2	Option 3
Initial oath requirement	If no past oath with civility language		
Initial declaration requirement		If no past oath with civility language	
Initial affirmation requirement			✓
Annual affirmation requirement	✓	✓	✓



# California Rule of Court 9.7

## Option One:

Most closely aligned with  
CCTF recommended changes

- Requires any licensee who did not take the oath with the civility language to retake the oath by December 1, 2023.
- Extends the attorney oath requirement to special admissions attorneys as part of their application or renewal application to practice law in California.
- Requires all licensees and specially admitted attorneys to take the civility pledge annually when paying annual licensing fees.



### Option Two: Middle ground

- Requires any licensee who did not take the oath with the civility language and special admissions attorneys to submit a declaration with the civility language.
- Extends civility-related requirements to special admissions attorneys as part of their application or renewal application to practice law in California, but a declaration, not oath.
- Requires all licensees and specially admitted attorneys to take the civility pledge annually when paying annual licensing fees.



### Option Three: Least burdensome

- All licensees and specially admitted attorneys to take the civility pledge annually when paying annual licensing fees.
- No civility oath or declaration requirement for attorneys admitted pre-2014 or for specially admitted attorneys.



## All Options

- Direct the State Bar to develop rules and procedures related to implementation, including:
  - How an attorney would affirm the civility pledge (likely annually); and
  - Gives State Bar discretion as to when an attorney must demonstrate compliance.
- A licensee who fails to take the oath or who fails to reaffirm the civility pledge would be enrolled as an inactive licensee.
- Any special admissions attorney who fails to take the oath or reaffirm the civility pledge would be subject to registration suspension or termination.



# What would be required?



## Option One Oath:

- Sworn before an authorized official
- May result in costs to attorney (e.g., if sworn before a notary public)



## Option Two Declaration:

- Recital(s) signed under penalty of perjury with electronic signature
- Could be completed electronically
- No costs to attorney



## Option Three Affirmation:

- Recital(s) submitted under penalty of perjury by “checking a box”
- Could be completed electronically
- No costs to attorney

