



The State Bar of California

OPEN SESSION

AGENDA ITEM

50-6 SEPTEMBER 2022

FINANCE COMMITTEE II.B

DATE: September 22, 2022

TO: Members, Finance Committee
Members, Board of Trustees

FROM: Sonia Delen, Board of Trustees
José Cisneros, Board of Trustees
Melanie Shelby, Board of Trustees

SUBJECT: Approval of Licensee Requests for Adjustments of Fees, Penalties, and Charges

EXECUTIVE SUMMARY

Licensees may request adjustments to their license fees and penalties. Staff are empowered to approve or deny requests based on certain factors delineated in the rules. Title Two, Rule 2.16 (H) of the Rules of the State Bar states that the Board reserves the right for good cause to grant requests for waivers that were denied by staff and to consider all other requests for waivers outside the scope of staff's authority. Each year, staff convene an informal working group of Board members to assist in developing the recommendations on such requests. This agenda item identifies which licensee requests the working group has determined to have good cause to recommend fee adjustments and which the group recommends denying. Going forward, staff plans to seek amendments to rule 2.16 (H) to eliminate full Board approval of these waiver requests. This ministerial action by the Board of Trustees is not required by any other source, and the informal working group process affords sufficient Board oversight over this routine administrative activity.

Board members with questions or concerns may contact Dina DiLoreto, 415-538-2121 or dina.diloreto@calbar.ca.gov.

BACKGROUND

Rule 2.16 of Title Two of the Rules of the State Bar authorizes the waiver of annual license fees and penalties in defined circumstances. Rule 2.16 (C) specifies three circumstances where staff may grant a licensee's request for waiver of up to \$1,000 in annual licensing fees and penalties for the year in which they are due: (1) the licensee serves full-time as a magistrate, commissioner, or referee for a state or federal court of record; (2) the licensee is a retired judge who accepts assignments from the Chief Justice in the assigned judges' program; or (3) the licensee's total gross annual household income from all sources is \$20,000 or less, in which case the waiver is 50 percent of the annual license fees.

Rule 2.16 (D)–(G) also allow staff to grant waivers for licensees serving in the National Guard or in one of the military reserve units for at least 30 days, judicial officers who are leaving office, inactive licensees over 70 years of age, and licensees enrolled in the State Bar of California Pro Bono Practice Program.

Rule 2.16 (H) reserves to the Board of Trustees the authority, for good cause: (1) to grant requests for waivers denied by staff; and (2) to consider requests that fall outside of staff's authorization for granting a waiver of fees and penalties. Traditionally, a small group of Board members volunteer to meet with staff, review the waiver requests that come under rule 2.16 (H) and then make recommendations to the appropriate Board committee and the Board of Trustees on whether good cause is present to grant the waiver requests. After confirming with the chair of the Finance Committee that this structure for consideration of waiver requests remained acceptable, staff secured Trustees Sonia Delen, José Cisneros, and Melanie Shelby as the Board volunteers. Sonia Delen has served in this capacity in prior years.

In assessing what constitutes good cause for purposes of determining whether or not the Board of Trustees should grant a fee waiver, the licensee's justifications for a fee waiver should be weighed against the public policy reasons for imposing annual license fees. The primary public policy reason for imposing State Bar license fees is to provide funding for an effective attorney regulatory system that protects the public. The system is funded solely through the imposition and collection of annual fees. For this reason, license fee waivers should not be granted as a matter of course, but rather they should be limited to extraordinary, compelling, and exigent situations.

DISCUSSION

The following table lists all four requests for waivers considered by the informal working group, along with the recommendations of the group to grant or deny the request.¹ The four waiver requests fall into two categories: (1) requests that are outside staff's authority to grant because they exceed \$1,000 or do not meet the parameters of rule 2.16 (C); and (2) appeals of requests within staff's authority to consider but which staff denied. The working group's recommendations are based on their review of the full request and supporting information provided by the requesting attorney. For the Finance Committee and the Board of Trustees, the

¹ In the interest of privacy, the requestors are listed anonymously.

following table summarizes the requests only at a high level. The table is organized to first list those waiver requests recommended for approval by the informal working group, then to list those waiver requests recommended for partial approval, and finally to list those recommended for denial.

Name	Status	Request/Comments	Working Group Recommendations
Waiver Applicant 1	Not Eligible	Attorney has a current balance of \$1,285. Attorney requests a waiver of their outstanding balance. Attorney's request is based on financial and medical hardship.	Grant – 50 percent waiver of outstanding license fees and penalties
Waiver Applicant 2	Active	Attorney has no current balance. Attorney requests a waiver of their 2022 late payment penalty. Attorney's request is based on lack of employment.	Deny
Waiver Applicant 3	Active	Attorney has no current balance. Attorney requests the inactive license fee for 2022. Attorney's request is based on their own negligence and distracting circumstances.	Deny
Waiver Applicant 4	Active	Attorney has no current balance. Attorney requests a waiver of their 2022 license fees and late payment penalty. Attorney's request is based on financial hardship.	Deny

FISCAL/PERSONNEL IMPACT

This item contains one recommendation for a waiver or adjustment of fees for a total financial impact of \$642.50. If the recommended adjustment is approved, the year-to-date fiscal impact will be \$3,146.50. (This total does not include other waivers that are routinely granted because they are authorized under existing State Bar rules.)

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None – core business operations

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal: None – core business operations

RECOMMENDATIONS

Should the Finance Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Finance Committee recommends that the Board of Trustees approves the fee adjustments for the State Bar licensees as presented this day and on file in the San Francisco office of the State Bar.

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, upon recommendation of the Finance Committee, approves the fee adjustments for the State Bar licensees as presented this day and on file in the San Francisco office of the State Bar.

ATTACHMENT LIST

None