



The State Bar of California

OPEN SESSION AGENDA ITEM 50-5 MAY 2023 FINANCE COMMITTEE III.A

DATE: May 18, 2023

TO: Members, Finance Committee
Members, Board of Trustees

FROM: José Cisneros, Board of Trustees
Raymond A. Buenaventura, Board of Trustees

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

EXECUTIVE SUMMARY

Licensees may request adjustments to their licensing 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 convenes an informal working group of Board members to review these waiver requests. This agenda item outlines the working group's decisions with respect to that review.

Board members with questions or concerns may contact Linda Knitter, 415-538-2241 or linda.knitter@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 volunteers to meet with staff, review the waiver requests that come under rule 2.16 (H) and then make recommendations to 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 José Cisneros and Raymond Buenaventura, as the Board volunteers.

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 should be limited to extraordinary, compelling, and exigent situations.

DISCUSSION

The following table lists all nine requests for waivers considered by the informal working group, along with the recommendations of the group to grant or deny the request ¹. The nine 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.

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

Name	Status	Request/Comments	Working Group Recommendations
Waiver Applicant 1	Inactive	Attorney has a current balance of \$207.40. Attorney requests a waiver of his late payment penalty. Attorney's request is based on medical hardship.	Grant
Waiver Applicant 2	Active	Attorney has no current balance. Attorney requests a waiver of her late payment penalty. Attorney's request is based on a medical hardship.	Grant
Waiver Applicant 3	Active	Attorney has a current balance of \$100. Attorney requests a waiver of his late payment penalty. Attorney's request is based on medical hardship.	Grant
Waiver Applicant 4	Inactive	Attorney has a current balance of \$610.00. Attorney requests the inactive license rate and late payment penalty for 2023. Attorney's request is based on medical hardship.	Grant
Waiver Applicant 5	Inactive	Attorney has no current balance. Attorney requests a waiver of her late payment penalties for 2022 and 2023. Attorney's request is based on her assertion that the late fees are excessive and unwarranted in her case.	Deny
Wavier Applicant 6	Active	Attorney has a current balance of \$8,691.00. Attorney requests a waiver of his current balance. fees. Attorney's request is based on financial hardship.	Deny
Waiver Applicant 7	Inactive	Attorney has a current balance of \$207.40. Attorney requests a waiver of his late payment penalty. Attorney's request is based on his claim that he was not notified that his fees had been changed to the inactive rate.	Deny
Waiver Applicant 8	Active	Attorney has no current balance. Attorney requests a waiver of her late payment penalty. Attorney's request is based on medical hardship.	Deny
Waiver Applicant 9	Inactive	Attorney has a current balance of \$610.00. Attorney requests the inactive license fee for 2023. Attorney's request is based on the fact that she thought she had transferred to inactive status in 2022.	Deny

FISCAL/PERSONNEL IMPACT

This item contains one recommendation for a waiver or adjustment of fees for a total financial impact of \$633.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

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