



The State Bar of California

OPEN SESSION AGENDA ITEM 50-2 NOVEMBER 2023

DATE: November 16, 2023

TO: Members, Board of Trustees

FROM: Steven Moawad, Special Counsel, Division of Regulation
Mia Ellis, Deputy Special Counsel, Division of Regulation

SUBJECT: Annual Recommendation to the Supreme Court for Expungement
of Suspensions of Licensees Delinquent in Payment of License Fees, Penalties,
and Charges

EXECUTIVE SUMMARY

California Rule of Court 9.8(b) authorizes the Board of Trustees to annually recommend to the California Supreme Court the expungement of nondisciplinary suspensions for nonpayment of licensing fees for licensees who satisfy specified criteria. Staff has identified 104 licensees that appear likely to meet the eligibility requirements for expungement as of December 31, 2023. Staff will therefore recommend that the Supreme Court order that the suspensions of licensees listed be expunged from their public disciplinary records. If the Board approves this recommendation, a list of eligible attorneys will be transmitted to the Supreme Court for its order of expungement.

BACKGROUND

Since 2007, California Rule of Court 9.8(b) (formerly 9.6(b)) allows the State Bar to recommend expungement of a State Bar of California licensed attorney's record of having been suspended for failure to pay license fees if all conditions are met. The current conditions for eligibility are as follows:

1. The licensee has not on any previous occasion obtained an expungement under the terms of rules 9.8(b) or 9.31;
2. The suspension was for 90 days or fewer;
3. The suspension ended at least seven years prior to the date the expungement is sought; and

4. The licensee has no other record of suspension or involuntary inactive enrollment for discipline or otherwise.

DISCUSSION

Under the criteria of rule 9.8(b), State Bar staff have identified 104 licensees with nondisciplinary suspensions that are on track to qualify for expungement as of December 31, 2023. The list has been checked extensively, and if approved, a process exists to expunge the suspension records.

If the Board decides to recommend expungement of eligible attorneys' suspensions for nonpayment of fees, staff will transmit a list of attorneys eligible as of December 31, 2023, to the Supreme Court during the first week of January with a recommendation that each of these attorneys' public records of suspension be expunged. Upon issuance of the Court's order, eligible attorneys will be notified by mail that such records have been expunged and will include a copy of the expungement order.

Rule 9.8(c) requires the State Bar of California to maintain the records that would be necessary to demonstrate the applicability of rule 9.8(b) for each licensee and to report an attorney's eligibility for a judgeship to appropriate governmental entities, pursuant to article VI, section 15 of the California Constitution.¹ State Bar staff has developed a process and protocol to meet this requirement.

FISCAL/PERSONNEL IMPACT

Staff resources needed to implement this are already accounted for in the budget.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – core business operations

RECOMMENDATIONS

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

¹ Article VI, section 15 of the California Constitution provides that "[a] person is ineligible to be a judge of a court of record unless for 10 years immediately preceding selection, the person has been a member of the State Bar or served as a judge of a court of record in this State."

RESOLVED, that the Board of Trustees directs staff to submit the annual recommendation to the California Supreme Court that licensees who meet the criteria for expungement of suspensions for failure to pay fees have their suspensions expunged as set forth in California Rule of Court 9.8; and it is

FURTHER RESOLVED, that upon the Court's order of expungement, staff is directed to immediately expunge the suspensions from the licensed attorneys' records and notify each attorney of the Court's order and the expungement.

ATTACHMENT LIST

None