



The State Bar of California

Alternative Discipline Program Fact Sheet ¹

Referral to the Alternative Discipline Program

Referral to the program can be made at the request of either party or the Court's own motion.

A referral by the Court must be made at least 45 days before the first scheduled trial date in the proceeding.

How Someone Learns of the Alternative Discipline Program

Their attorney, if they have one.

The Court routinely discusses ADP at settlement conferences, if one is held, and it seems relevant to do so. If the response to the Notice of Disciplinary Charges indicates substance abuse, then a trial judge may refer the respondent to the chapter on ADP in the Rules of Procedure or the court's website.

Acceptance Requirements

Participation in the program requires:

- The attorney's acceptance into the State Bar's Lawyer Assistance Program;
- The Court's approval of a stipulation of facts and conclusions of law signed by the parties;
- Evidence that the attorney's substance abuse or mental health issue causally contributed to the misconduct.

Non-Eligibility

An attorney will not be accepted into the program if:

- The stipulation of facts and conclusions of law, including aggravating factors, signed by the attorney and the Office of Chief Trial Counsel shows that the attorney's disbarment is warranted, despite mitigating circumstances;
- The attorney has been convicted of a criminal offense that subjects him or her to summary disbarment under Business and Professions Code § 6102(c);
- The attorney's current misconduct involves acts of moral turpitude, dishonesty, or corruption that has resulted in significant harm to one or more clients or to the administration of justice;
- There is a finding, based on expert testimony, that: (a) the attorney will not substantially benefit from treatment for his or her substance abuse or mental health problem; or
- The substance abuse or mental health problem cannot be overcome or controlled to the extent that it is unlikely to cause further misconduct; or
- The attorney has previously participated in the Program and has either successfully completed the Program or been terminated from the Program.

¹ Compiled from the Rules of Procedure, experience, and stakeholder feedback.

Implication of Acceptance into the Alternative Discipline Program

- Successful completion could result in dismissal of the charges.
- Unsuccessful completion could result in a disposition as high as disbarment.
- In either instance, the extent and severity of the attorney's stipulated misconduct, including the degree of harm suffered by his or her clients, are factors in determining the disposition implemented or recommended.

Participation

Ranges from 18 months to three years.

Any condition that could be imposed in a disciplinary proceeding can also be required as part of ADP. For example, restitution might be ordered or attendance at Ethics School, etc.

During the term of ADP, the attorney appears for status conferences with the Court, generally quarterly but the frequency can be increased or decreased depending on compliance with the program.

Successful completion requires LAP certification that the attorney has been substance-free for at least one year, or in the case of an attorney with mental health issues, the Court deems the recommendation of a mental health professional recommendation satisfactory. LAP issues a one-year certificate for mental health stability.

Costs

- The LAP group fee is \$260 per month.
- The biological fluid testing fees range from \$90 to approximately \$400 per month, based on testing frequency and the type of test indicated.
- Fees insurance does not cover if the attorney is also required to see a therapist, psychiatrist, or attend an outpatient or residential treatment program.
- Defense counsel costs which would include application to the program and all attendant work along with appearances at Court status conferences. While rates likely vary, as a point of comparison the State Bar Court's rate paid to court-appointed counsel in other special proceedings as of May 2021, was \$300/hour.
- During the term of ADP, the Court may also require compliance with other conditions which could include payment of restitution.