

Title 9. Rules On Law Practice, Attorneys, And Judges

Division 1. General Provisions

Rule 9.0. Title and source

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(a) Title

The rules in this title may be referred to as the Rules on Law Practice, Attorneys, and Judges.

(b) Source

The rules in this title were adopted by the Supreme Court under its inherent authority over the admission and discipline of attorneys and under subdivisions (d) and (f) of section 18 of article VI of the Constitution of the State of California.

Rule 9.0 amended and renumbered effective January 1, 2018; adopted as rule 9.1 effective January 1, 2007.

Division 2. Attorney Admission and Disciplinary Proceedings and Review of State Bar Proceedings

Chapter 1. General Provisions

Rule 9.1. Definitions

Rule 9.2. Interim Special Regulatory Assessment for Attorney Discipline

Rule 9.1. Definitions

As used in this division, unless the context otherwise requires:

- (1) “Member” means a member of the State Bar of California.
- (2) “State Bar Court” means the Hearing Department or the Review Department established under Business and Professions Code sections 6079.1 and 6086.65.
- (3) “Review Department” means the Review Department of the State Bar Court established under Business and Professions Code section 6086.65.
- (4) “General Counsel” means the general counsel of the State Bar of California.
- (5) “Chief Trial Counsel” means the chief trial counsel of the State Bar of California appointed under Business and Professions Code section 6079.5.

Rule 9.1 renumbered effective January 1, 2018; adopted as rule 950 effective December 1, 1990; previously amended and renumbered as rule 9.5 effective January 1, 2007.

Rule 9.2. Interim Special Regulatory Assessment for Attorney Discipline

- (a) This rule is adopted by the Supreme Court solely as an emergency interim measure to protect the public, the courts, and the legal profession from the harm that may be caused by the absence of an adequately functioning attorney disciplinary system. The Supreme Court contemplates that the rule may be modified or repealed once legislation designed to fund an adequate attorney disciplinary system is enacted and becomes effective.

- (b) (1) Each active member shall pay a mandatory regulatory assessment of two hundred ninety-seven dollars (\$297) to the State Bar of California. This assessment is calculated as the sum of the following amounts:
 - (A) Two hundred eighty-three dollars (\$283) to support the following departments and activities:
 - Office of Chief Trial Counsel
 - Office of Probation
 - State Bar Court
 - Mandatory Fee Arbitration program
 - Office of Professional Competence
 - Office of General Counsel
 - Office of Member Records and Compliance
 - Member Billing
 - Office of Communications (support of discipline only)
 - California Young Lawyers Association (discipline-related only).

 - (B) Nine dollars (\$9) to fund implementation of the workforce plan recommendations from the National Center for State Courts.

 - (C) Five dollars (\$5) to make up for revenue the State Bar will forgo because of assessment scaling and assessment waivers, as provided for under this rule.

- (2) The \$297 assessment specifically excludes any funding for the State Bar’s legislative lobbying, elimination of bias, and Bar relations programs.

- (3) Payment of this assessment is due by March 1, 2017. Late payment or nonpayment of the assessment shall subject a member to the same penalties and/or sanctions applicable to mandatory fees authorized by statute.

- (4) The provisions regarding fee scaling, fee waivers, and penalty waivers contained in Business and Professions Code section 6141.1 and rules 2.15

and 2.16 of the Rules of the State Bar of California shall apply to requests for relief from payment of the assessment or any penalty under this rule. Applications for relief from payment shall be made to the State Bar, which may grant or deny waivers in conformance with its existing rules and regulations. The State Bar shall keep a record of all fee scaling and fee waivers approved and the amount of fees affected.

- (c) A special master appointed by the Supreme Court shall establish the Special Master's Attorney Discipline Fund, into which all money collected pursuant to this rule shall be deposited. The special master shall oversee the disbursement and allocation of funds from the Special Master's Attorney Discipline Fund for the limited purpose of maintaining, operating, and supporting an attorney disciplinary system, including payment of the reasonable costs and expenses of the special master as ordered by the Supreme Court. The special master shall exercise authority pursuant to the charge of the Supreme Court and shall submit quarterly reports and recommendations to the Supreme Court regarding the supervision and use of these funds. The State Bar shall respond in timely and accurate fashion to the special master's requests for information and reports.

Should any funds collected pursuant to this rule not be used for the limited purpose set forth in the rule, the Supreme Court may order the refund of an appropriate amount to members or take any other action that it deems appropriate.

Rule 9.2 renumbered effective January 1, 2018; adopted as rule 9.9 effective November 16, 2016.

Chapter 2. Attorney Admissions

Rule 9.3. Inherent power of Supreme Court

Rule 9.4. Nomination and appointment of Members to Committee of Bar Examiners

Rule 9.5. Supreme Court approval of admissions rules

Rule 9.6. Supreme Court approval of bar examination

Rule 9.7. Oath required when admitted to practice law

Rule 9.8. Roll of attorneys admitted to practice

Rule 9.9. Online reporting by attorneys

Rule 9.9.5. Attorney Fingerprinting

Rule 9.3. Inherent power of Supreme Court

(a) Inherent power over admissions

The Supreme Court has the inherent power to admit persons to practice law in California. The State Bar and its Committee of Bar Examiners serve as the administrative arm of the Supreme Court for admissions matters and in that capacity act under the authority and at the direction of the Supreme Court. The Committee of Bar Examiners is authorized to administer the requirements for admission to practice law, to examine all applicants for admission, and to certify to

the Supreme Court for admission those applicants who fulfill the admission requirements.

(b) Inherent jurisdiction over practice of law

Nothing in this chapter may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in this state.

Rule 9.3 adopted effective January 1, 2018.

Rule 9.4. Nomination and appointment of members to the Committee of Bar Examiners

(a) Appointments

The Supreme Court is responsible for appointing ten examiners to the Committee of Bar Examiners, each for a four-year term. At least one of the ten examiners must be a judicial officer in this state, and the balance must be members of the State Bar. At least one of the attorney examiners shall have been admitted to practice law in California within three years from the date of his or her appointment. The court may reappoint an attorney or judicial officer examiner to serve no more than three additional full terms, and may fill any vacancy in the term of any appointed attorney or judicial officer examiner.

(b) Nominations

The Supreme Court must make its appointments from a list of candidates nominated by the Board of Trustees of the State Bar pursuant to a procedure approved by the court.

Rule 9.4 adopted effective January 1, 2018.

Rule 9.5. Supreme Court approval of admissions rules

All rules adopted by the State Bar Committee of Bar Examiners and approved by the State Bar Board of Trustees pertaining to the admission to practice law must be submitted to the Supreme Court for its review and approval.

Rule 9.5 adopted effective January 1, 2018.

Rule 9.6. Supreme Court approval of bar examination

(a) Bar examination

The Committee of Bar Examiners is responsible for determining the bar examination's format, scope, topics, content, questions, and grading process,

subject to review and approval by the Supreme Court. The Supreme Court must set the passing score of the examination.

(b) Analysis of validity

At least once every seven years, or whenever directed by the Supreme Court, the State Bar must conduct an analysis of the validity of the bar examination. The State Bar must prepare and submit a report summarizing its findings and recommendations, if any, to the Supreme Court. Any recommendations proposing significant changes to the bar examination, and any recommended change to the passing score, must be submitted to the Supreme Court for its review and approval.

(c) Report on examination

The State Bar must provide the Supreme Court a report on each administration of the bar examination in a timely manner.

Rule 9.6 adopted effective January 1, 2018.

Rule 9.7. Oath required when admitted to practice law

In addition to the language required by Business and Professions Code section 6067, the oath to be taken by every person on admission to practice law is to conclude with the following: “As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity.”

Rule 9.7 renumbered effective January 1, 2018; adopted as rule 9.4 effective May 27, 2014.

Rule 9.8. Roll of attorneys admitted to practice

(a) State Bar to maintain the roll of attorneys

The State Bar must maintain, as part of the official membership records of the State Bar, the Roll of Attorneys of all persons admitted to practice in this state. Such records must include the information specified in Business and Professions Code section 6002.1 and 6064 and other information as directed by the Supreme Court.

(Subd (a) lettered effective June 1, 2007; adopted as unlettered subdivision effective May 1, 1996; previously amended effective January 1, 2007.)

b) Annual State Bar recommendation for one-time expungement of suspension for nonpayment of membership fees

The State Bar is authorized to transmit to the Supreme Court on an annual basis the names of those members who meet all of the following criteria, along with a recommendation that their public record of suspension for nonpayment of membership fees be expunged:

- (1) The member has not on any previous occasion obtained an expungement under the terms of this rule or rule 9.31;
- (2) The suspension was for 90 days or less;
- (3) The suspension ended at least seven years before the date of the submission of member's name to the Supreme Court;
- (4) The member has no other record of suspension or involuntary inactive enrollment for discipline or otherwise.

(Subd (b) amended effective August 1, 2017; adopted effective June 1, 2007.)

(c) Records to be maintained by State Bar

Upon order of the Supreme Court of expungement of a member's record under (b) of this rule, the State Bar will remove or delete the record of such suspension from the member's record. Notwithstanding any other provision of this rule, the State Bar must maintain such internal records as are necessary to apply the terms of (b) of this rule and to report to the Commission on Judicial Nominees Evaluation or appropriate governmental entities involved in judicial elections the member's eligibility for a judgeship under the California Constitution, article VI, section 15.

(Subd (c) adopted effective June 1, 2007.)

(d) Duty of disclosure by member

Expungement of a member's suspension under (b) of this rule will not relieve the member of his or her duty to disclose the suspension for purpose of determining the member's eligibility for a judgeship under the California Constitution, article VI, section 15. For all other purposes the suspension expunged under (b) of this rule is deemed not to have occurred and the member may answer accordingly any question relating to his or her membership record.

(Subd (d) adopted effective June 1, 2007.)

(e) Authorization for the Board of Trustees of the State Bar to adopt rules and regulations

The Board of Trustees of the State Bar is authorized to adopt such rules and regulations as it deems necessary and appropriate in order to comply with this rule.

(Subd (e) amended effective August 1, 2017; adopted effective June 1, 2007.)

(f) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court to exercise its inherent power to direct the State Bar to expunge its records.

(Subd (f) adopted effective June 1, 2007.)

Rule 9.8 renumbered effective January 1, 2018; adopted as rule 950.5 by the Supreme Court effective May 1, 1996; previously amended and renumbered as rule 9.6 effective January 1, 2007; previously amended effective June 1, 2007, and August 1, 2017.

Rule 9.9. Online reporting by attorneys

(a) Required information

To maintain the roll of attorneys required by rule 9.6 and to facilitate communications by the State Bar with its members, each member must use an online membership account on a secure system provided by the State Bar to report a current:

- (1) Office address and telephone number, or if none, another address; and
- (2) An e-mail address not to be disclosed on the State Bar's Web site or otherwise to the public without the member's consent.

(b) Optional information

A member may also use an online membership account to:

- (1) Provide an e-mail address for disclosure to the public on the State Bar Web site; and
- (2) Provide additional information as authorized by statute, rule or Supreme Court directive, or as requested by the State Bar.

(c) Exclusions

Unless otherwise permitted by law or the Supreme Court, the State Bar may not use e-mail as substitute means of providing a notice required to initiate a State Bar disciplinary or regulatory proceeding or to otherwise change a member's status involuntarily.

(d) Exemption

A member who does not have online access or an e-mail address may claim an exemption from the reporting requirements of this rule. The exemption must be requested in the manner prescribed by the State Bar.

Rule 9.9 renumbered effective January 1, 2018; adopted as rule 9.7 effective February 1, 2010.

Rule 9.9.5. Attorney Fingerprinting

(a) Subsequent arrest notification

- (1) The State Bar must enter into a contract with the California Department of Justice for subsequent arrest notification services for attorneys whose license is on active status with the State Bar (“active licensed attorneys”) and attorneys permitted to practice in the State of California pursuant to rules 9.44, 9.45, and 9.46 of the California Rules of Court (“special admissions attorneys”).
- (2) The State Bar must consider those active licensed attorneys and special admissions attorneys for whom it is already receiving subsequent arrest notification services as having satisfied the fingerprinting requirement of this rule and thereby exempt. The State Bar must adopt a procedure for notification of all attorneys as to whether they have been deemed to have already satisfied the requirement.

(b) Active licensed attorneys

Each active licensed attorney, with the exception of those attorneys specifically exempt under (a)(2) of this rule, must, pursuant to the procedure identified by the State Bar, be fingerprinted for the purpose of obtaining criminal offender record information regarding state and federal level convictions and arrests from the Department of Justice and the Federal Bureau of Investigation. These fingerprints will be retained by the Department of Justice for the limited purpose of subsequent arrest notification.

(c) Inactive licensed attorneys

An attorney whose license is on inactive status with the State Bar (“inactive licensed attorneys”), with the exception of those attorneys specifically exempt under (a)(2) of this rule, must, pursuant to the procedure identified by the State Bar, be fingerprinted prior to being placed on active status for the purposes described in (b) of this rule.

(d) Active licensed attorneys in foreign countries

Active licensed attorneys who are residing outside the United States and required to submit fingerprints under this rule should have their fingerprints taken by a licensed fingerprinting service agency and submit the hard copy fingerprint card to the State Bar. If fingerprinting services are not provided in the jurisdiction where the attorney is physically located, or the attorney is able to provide evidence that he/she is unable to access or afford such services, the attorney must notify the State Bar pursuant to the procedure identified by the State Bar. The attorney will be

exempt from providing fingerprints until he or she returns to the United States for a period of not less than 60 days.

(e) Special admissions attorneys

Attorneys permitted to practice in the State of California pursuant to rules 9.44, 9.45, and 9.46 of the California Rules of Court, with the exception of those attorneys specifically exempt under (a)(2) of this rule, must, pursuant to the procedure identified by the State Bar, be fingerprinted for the purpose of obtaining criminal offender record information regarding state and federal level convictions and arrests from the Department of Justice and the Federal Bureau of Investigation. These fingerprints will be retained by the Department of Justice for the limited purpose of subsequent arrest notification.

(f) Implementation schedule and penalty for noncompliance

(1) The State Bar must develop a schedule for implementation that requires all attorneys subject to fingerprinting under (b) of this rule to be fingerprinted by December 1, 2019. The State Bar must develop a schedule for implementation that requires all special admissions attorneys subject to fingerprinting under (e) of this rule to be fingerprinted by the renewal of their application to practice law in the State of California.

(2) The State Bar has ongoing authority to require submission of fingerprints after December 1, 2019 for attorneys for whom it is not receiving subsequent arrest notification services and for attorneys transferring to active status. Failure to be fingerprinted if required by this rule may result in involuntary inactive enrollment pursuant to Business and Professions Code section 6054, subdivision (d).

(3) The State Bar has ongoing authority to require submission of fingerprints after December 1, 2019, for special admissions attorneys for whom it is not receiving subsequent arrest notification services. Failure to be fingerprinted if required may result in a State Bar determination that the attorney cease providing legal services in California.

(g) Information obtained by fingerprint submission; disclosure limitations

Any information obtained by the State Bar as a result of fingerprint submission under this rule must be kept confidential and used solely for State Bar licensing and regulatory purposes.

(h) Fingerprint submission and processing costs

(1) Except as described in (h)(2), all costs incurred for the processing of fingerprints for the State Bar, including print furnishing and encoding, as

required by Business and Professions Code section 6054, must be borne by the licensed attorney or special admissions attorney.

- (2) The State Bar must develop procedures for granting waivers of the processing costs of running Department of Justice and Federal Bureau of Investigation background checks for licensed attorneys with demonstrable financial hardship.
- (i) Attorneys who are physically unable to be fingerprinted**
- (1) If the Department of Justice makes a determination pursuant to Penal Code section 11105.7 that any attorney required to be fingerprinted under this rule is presently unable to provide legible fingerprints, the attorney will be deemed to have complied with the fingerprinting requirements of this rule.
 - (2) Attorneys required to be fingerprinted under this rule may also submit notification to the State Bar that they are unable to submit fingerprints due to disability, illness, accident, or other circumstances beyond their control. The State Bar must evaluate the notification and may require additional evidence. If the State Bar determines that the attorney is unable to submit fingerprints based on the information provided, the attorney will be deemed to have complied with the fingerprinting requirements of this rule.
 - (3) A determination of deemed compliance under (i)(1) and (i)(2) will apply only to those attorneys who are unable to supply legible fingerprints due to disability, illness, accident, or other circumstances beyond their control and will not apply to attorneys who are unable to provide fingerprints because of actions they have taken to avoid submitting their fingerprints.

Rule 9.9.5 adopted effective June 1, 2018.

Chapter 3. Attorney Disciplinary Proceedings

Rule 9.10. Authority of the State Bar Court

Rule 9.11. State Bar Court judges

Rule 9.12. Standard of review for State Bar Court Review Department

Rule 9.13. Review of State Bar Court decisions

Rule 9.14. Petitions for review by the Chief Trial Counsel

Rule 9.15. Petitions for review by the Committee of Bar Examiners; grounds for review; confidentiality

Rule 9.16. Grounds for review of State Bar Court decisions in the Supreme Court

Rule 9.17. Remand with instructions

Rule 9.18. Effective date of disciplinary orders and decisions

Rule 9.19. Conditions attached to reprovals

Rule 9.20. Duties of disbarred, resigned, or suspended attorneys

Rule 9.21. Resignations of members of the State Bar with disciplinary charges pending

Rule 9.22. Suspension of members of the State Bar for failure to comply with judgment or order for child or family support

Rule 9.23. Enforcement as money judgment disciplinary orders directing the payment of costs and disciplinary orders requiring reimbursement of the Client Security Fund

Rule 9.10. Authority of the State Bar Court

(a) Conviction proceedings

The State Bar Court exercises statutory powers under Business and Professions Code sections 6101 and 6102 with respect to the discipline of attorneys convicted of crimes. (See Bus. & Prof. Code section 6087.) For purposes of this rule, a judgment of conviction is deemed final when the availability of appeal has been exhausted and the time for filing a petition for certiorari in the United States Supreme Court on direct review of the judgment of conviction has elapsed and no petition has been filed, or if filed the petition has been denied or the judgment of conviction has been affirmed. The State Bar Court must impose or recommend discipline in conviction matters as in other disciplinary proceedings. The power conferred upon the State Bar Court by this rule includes the power to place attorneys on interim suspension under subdivisions (a) and (b) of section 6102, and the power to vacate, delay the effective date of, and temporarily stay the effect of such orders.

(Subd (a) amended effective January 1, 2007.)

(b) Professional responsibility examination

The State Bar Court may:

- (1) Extend the time within which a member of the State Bar must take and pass a professional responsibility examination;
- (2) Suspend a member for failing to take and pass such examination; and
- (3) Vacate a member's suspension for failing to take and pass such examination.

(Subd (b) amended effective January 1, 2007.)

(c) Probation

The State Bar Court for good cause, may:

- (1) Approve stipulations between the member and the Chief Trial Counsel for modification of the terms of a member's probation; and

- (2) Make corrections and minor modifications to the terms of a member's disciplinary probation.

The order of the State Bar Court must be filed promptly with the Clerk of the Supreme Court.

(Subd (c) amended effective January 1, 2007.)

(d) Rule 9.20 compliance

The State Bar Court for good cause, may extend the time within which a member must comply with the provisions of rule 9.20 of the California Rules of Court.

(Subd (d) amended effective January 1, 2007.)

(e) Commencement of suspension

The State Bar Court for good cause, may delay temporarily the effective date of, or temporarily stay the effect of, an order for a member's disciplinary suspension from practice.

(Subd (e) amended effective January 1, 2007.)

(f) Readmission and reinstatement

Applications for readmission or reinstatement must, in the first instance, be filed and heard by the State Bar Court, except that no applicant who has been disbarred by the Supreme Court on two previous occasions may apply for readmission or reinstatement. Applicants for readmission or reinstatement must:

- (1) Pass a professional responsibility examination;
- (2) Establish their rehabilitation and present moral qualifications for readmission; and
- (3) Establish present ability and learning in the general law. Applicants who resigned without charges pending more than five years before filing an application for reinstatement or readmission must establish present ability and learning in the general law by providing proof, at the time of filing the application, that they have taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within five years prior to the filing of the application for readmission or reinstatement. Applicants who resigned with charges pending or who were disbarred must establish present ability and learning in the general law by providing proof, at the time of filing the application for readmission or reinstatement, that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners

within three years prior to the filing of the application for readmission or reinstatement.

(Subd (f) amended effective January 1, 2010; previously amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the lawyer discipline and admissions system.

(Subd (g) amended effective January 1, 2007.)

Rule 9.10 amended effective January 1, 2010; adopted as rule 951 effective December 1, 1990; previously amended by the Supreme Court effective April 1, 1996, and January 1, 2007.

Rule 9.11. State Bar Court judges

(a) Applicant Evaluation and Nomination Committee

- (1) In order to ensure that individuals appointed by the Supreme Court or by the executive or legislative branches have been evaluated objectively, the Supreme Court has established an independent Applicant Evaluation and Nomination Committee to solicit, receive, screen, and evaluate all applications for appointment or reappointment to any appointive position of judge of the State Bar Court (hearing judge, presiding judge, and review department judge). The role of the committee is to determine whether appointees possess not only the statutorily enumerated qualifications, but also any qualifications that may be required by the Supreme Court to assist in the exercise of its ultimate authority over the discipline and admission of attorneys (See *Obrien v. Jones* (2000) 23 Cal.4th 40; *In re Attorney Discipline* (1998) 19 Cal.4th 582; Cal. Const., art VI, sec. 9).
- (2) The committee serves at the pleasure of the Supreme Court. It shall consist of seven members appointed by the court of whom four must be members of the State Bar in good standing, two must be retired or active judicial officers, and one must be a public member who has never been a member of the State Bar or admitted to practice before any court in the United States. Two members of the committee must be present members of the Board of Governors of the State Bar (neither of whom may be from the Board's Discipline Committee).
- (3) The committee must adopt, and implement upon approval by the Supreme Court, procedures for:
 - (A) Timely notice to potential applicants of vacancies;

- (B) Receipt of applications for appointments to those positions from both incumbents and other qualified persons;
- (C) Solicitation and receipt of public comment;
- (D) Evaluation and rating of applicants; and
- (E) Transmittal of the materials specified in (b) of this rule to the Supreme Court and, as applicable, other appointing authorities.

The procedures adopted by the committee must include provisions to ensure confidentiality comparable to those followed by the Judicial Nominees Evaluation Commission established under Government Code section 12011.5.

- (4) The Board of Governors of the State Bar, in consultation with the Supreme Court if necessary, must provide facilities and support staff needed by the committee to carry out its obligations under this rule.

(Subd (a) amended effective January 1, 2009; previously amended effective February 15, 1995, July 1, 2000, and January 1, 2007.)

(b) Evaluations

- (1) The committee must evaluate the qualifications of and rate all applicants for positions appointed by the Supreme Court and must submit to the Supreme Court the nominations of at least three qualified candidates for each vacancy. Candidates shall be rated as “not recommended,” “recommended,” and “highly recommended.” A rating of “not recommended” relates only to the position under consideration and does not indicate any lack of ability or expertise of the applicant generally. The committee must report in confidence to the Supreme Court its evaluation, rating and recommendation for applicants for appointment and the reasons therefore, including a succinct summary of their qualifications, at a time to be designated by the Supreme Court. The report must include written comments received by the committee, which must be transmitted to the Supreme Court together with the nominations.
- (2) The committee must evaluate the qualifications of and rate all applicants for positions appointed by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, and must submit in confidence to the Supreme Court and, as applicable, to other appointing authorities, all applications for such positions together with the committee's evaluation, rating and recommendation for these applicants, including any written comments received by the committee, at a time to be designated by the Supreme Court.

- (3) In determining the qualifications of an applicant for appointment or reappointment the committee must consider, among other appropriate factors, the following: industry, legal and judicial experience (including prior service as a judge of the State Bar Court), judicial temperament, honesty, objectivity, community respect, integrity, and ability. The committee must consider legal work experience broadly, including, but not limited to, litigation and non-litigation experience, legal work for a business or nonprofit entity, experience as a law professor or other academic position, legal work in any of the three branches of government, and legal work in dispute resolution.

The committee shall consider whether an applicant has demonstrated the ability to write cogently and to analyze legal provisions and principles. Among the issues the committee may also consider are 1) the applicant's demonstrated capacity to work independently and to set and meet performance goals, 2) the applicant's knowledge and experience relevant to issues that give rise to the majority of State Bar Court proceedings, including professional ethics and fiduciary obligations, 3) knowledge of practice and demeanor in the courtroom, and (4) whether the applicant has been in practice for 10 or more years. The committee shall accord weight to all experience that has provided the applicant with legal experience and exposure during which the individual has demonstrated the underlying skills necessary to serve as an effective State Bar Court judge. The committee shall apply the same criteria to candidates seeking appointment from all of the appointing authorities. Any evaluation or rating of an applicant and any recommendation for appointment or reappointment by the committee must be made in conformity with Business and Professions Code section 6079.1(b) and in light of the factors specified in Government Code section 12011.5 (d), and those specified in this paragraph.

- (4) Upon transmittal of its report to the Supreme Court, the committee must notify any incumbent who has applied for reappointment by the Supreme Court if he or she is or is not among the applicants recommended for appointment to the new term by the committee. The applicable appointing authority must notify as soon as possible an incumbent who has applied for reappointment but is not selected.

(Subd (b) amended effective January 1, 2009; adopted effective February 15, 1995; previously amended effective July 1, 2000 and January 1, 2007.)

(c) Appointments

Only applicants who are rated as recommended or highly recommended by the committee or by the Supreme Court may be appointed. At the request of the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Supreme Court will reconsider a finding by the committee that a particular applicant is not recommended. The Supreme Court may make such orders as to the

appointment of applicants as it deems appropriate, including extending the term of incumbent judges pending such order or providing for staggered terms.

(Subd (c) amended effective January 1, 2009; adopted effective February 15, 1995; previously amended effective July 1, 2000 and January 1, 2007.)

(d) Discipline for misconduct or disability

A judge of the State Bar Court is subject to discipline or retirement on the same grounds as a judge of a court of this state. Complaints concerning the conduct of a judge of the State Bar Court must be addressed to the Executive Director-Chief Counsel of the Commission on Judicial Performance, who is the Supreme Court's investigator for the purpose of evaluating those complaints, conducting any necessary further investigation, and determining whether formal proceedings should be instituted. If there is reasonable cause to institute formal proceedings, the investigator must notify the Supreme Court of that fact and must serve as or appoint the examiner and make other appointments and arrangements necessary for the hearing. The Supreme Court will then appoint one or more active or retired judges of superior courts or Courts of Appeal as its special master or masters to hear the complaint and the results of the investigation, and to report to the Supreme Court on the resulting findings, conclusions, and recommendations as to discipline. The procedures of the Commission on Judicial Performance must be followed by the investigator and special masters, to the extent feasible. The procedures in the Supreme Court after a discipline recommendation is filed will, to the extent feasible, be the same as the procedures followed when a determination of the Commission on Judicial Performance is filed.

(Subd (d) amended effective January 1, 2007; adopted as subd (b) effective December 1, 1990; relettered effective February 15, 1995; previously amended effective July 1, 2000.)

Rule 9.11 amended effective January 1, 2009; adopted as rule 961 effective December 1, 1990; previously amended February 15, 1995, and July 1, 2000; previously amended and renumbered effective January 1, 2007.

Rule 9.12. Standard of review for State Bar Court Review Department

In reviewing the decisions, orders, or rulings of a hearing judge under rule 301 of the Rules of Procedure of the State Bar of California or such other rule as may be adopted governing the review of any decisions, orders, or rulings by a hearing judge that fully disposes of an entire proceeding, the Review Department of the State Bar Court must independently review the record and may adopt findings, conclusions, and a decision or recommendation different from those of the hearing judge.

Rule 9.12 amended and renumbered effective January 1, 2007; adopted as rule 951.5 by the Supreme Court effective February 23, 2000.

Rule 9.13. Review of State Bar Court decisions

(a) Review of recommendation of disbarment or suspension

A petition to the Supreme Court by a member to review a decision of the State Bar Court recommending his or her disbarment or suspension from practice must be filed within 60 days after a certified copy of the decision complained of is filed with the Clerk of the Supreme Court. The State Bar may serve and file an answer to the petition within 15 days of service of the petition. Within 5 days after service of the answer, the petitioner may serve and file a reply. If review is ordered by the Supreme Court, the State Bar must serve and file a supplemental brief within 45 days after the order is filed. Within 15 days of service of the supplemental brief, the petitioner may serve and file a reply brief.

(Subd (a) amended effective January 1, 2007; previously relettered and amended effective October 1, 1973; previously amended effective July 1, 1968, and December 1, 1990.)

(b) Review of State Bar recommendation to set aside stay of suspension or modify probation

A petition to the Supreme Court by a member to review a recommendation of the State Bar Court that a stay of an order of suspension be set aside or that the duration or conditions of probation be modified on account of a violation of probation must be filed within 15 days after a certified copy of the recommendation complained of is filed with the Clerk of the Supreme Court. Within 15 days after service of the petition, the State Bar may serve and file an answer. Within 5 days after service of the answer, the petitioner may serve and file a reply.

(Subd (b) amended effective January 1, 2007; adopted effective October 1, 1973; previously amended effective December 1, 1990.)

(c) Review of interim decisions

A petition to the Supreme Court by a member to review a decision of the State Bar Court regarding interim suspension, the exercise of powers delegated by rule 9.10(b)–(e), or another interlocutory matter must be filed within 15 days after written notice of the adverse decision of the State Bar Court is mailed by the State Bar to the petitioner and to his or her counsel of record, if any, at their respective addresses under section 6002.1. Within 15 days after service of the petition, the State Bar may serve and file an answer. Within 5 days after service of the answer, the petitioner may serve and file a reply.

(Subd (c) amended effective January 1, 2007; adopted effective December 1, 1990.)

(d) Review of other decisions

A petition to the Supreme Court to review any other decision of the State Bar Court or action of the Board of Governors of the State Bar, or of any board or committee appointed by it and authorized to make a determination under the provisions of the State Bar Act, or of the chief executive officer of the State Bar or the designee of the chief executive officer authorized to make a determination under article 10 of the State Bar Act or these rules of court, must be filed within 60 days after written notice of the action complained of is mailed to the petitioner and to his or her counsel of record, if any, at their respective addresses under section 6002.1. Within 15 days after service of the petition, the State Bar may serve and file an answer and brief. Within 5 days after service of the answer and brief, the petitioner may serve and file a reply. If review is ordered by the Supreme Court, the State Bar, within 45 days after filing of the order, may serve and file a supplemental brief. Within 15 days after service of the supplemental brief, the petitioner may file a reply brief.

(Subd (d) amended effective January 1, 2007; previously amended effective July 1, 1968, May 1, 1986, and April 2, 1987; previously relettered and amended effective October 1, 1973, and December 1, 1990.)

(e) Contents of petition

- (1) A petition to the Supreme Court filed under (a) and (b) of this rule must be verified, must specify the grounds relied upon, must show that review within the State Bar Court has been exhausted, must address why review is appropriate under one or more of the grounds specified in rule 9.16, and must have attached a copy of the State Bar Court decision from which relief is sought.
- (2) When review is sought under (c) and (d) of this rule, the petition must also be accompanied by a record adequate to permit review of the ruling, including:
 - (A) Legible copies of all documents and exhibits submitted to the State Bar Court supporting and opposing petitioner's position;
 - (B) Legible copies of all other documents submitted to the State Bar Court that are necessary for a complete understanding of the case and the ruling; and
 - (C) A transcript of the proceedings in the State Bar Court leading to the decision or, if a transcript is unavailable, a declaration by counsel explaining why a transcript is unavailable and fairly summarizing the proceedings, including arguments by counsel and the basis of the State Bar Court's decision, if stated; or a declaration by counsel stating that the transcript has been ordered, the date it was ordered, and the date it is expected to be filed, which must be a date before any action is requested from the Supreme Court other than issuance of a stay supported by other parts of the record.

- (3) A petitioner who requests an immediate stay must explain in the petition the reasons for the urgency and set forth all relevant time constraints.
- (4) If a petitioner does not submit the required record, the court may summarily deny the stay request, the petition, or both.

(Subd (e) amended effective January 1, 2007; previously repealed and adopted by the Supreme Court effective December 1, 1990, and February 1, 1991; previously repealed and adopted effective March 15, 1991.)

(f) Service

All petitions, briefs, reply briefs, and other pleadings filed by a petitioner under this rule must be accompanied by proof of service of three copies on the General Counsel of the State Bar at the San Francisco office of the State Bar, and of one copy on the Clerk of the State Bar Court at the Los Angeles office of the State Bar Court. The State Bar must serve the member at his or her address under Business and Professions Code section 6002.1, and his or her counsel of record, if any.

(Subd (f) amended effective January 1, 2007; adopted by the Supreme Court effective December 1, 1990; previously amended by the Supreme Court effective February 1, 1991; previously amended effective March 15, 1991.)

Rule 9.13 amended and renumbered effective January 1, 2007; adopted as rule 59 by the Supreme Court effective April 20, 1943, and by the Judicial Council effective July 1, 1943; previously amended and renumbered as rule 952 effective October 1, 1973; previously amended effective July 1, 1976, May 1, 1986, April 2, 1987, December 1, 1990, February 1, 1991, and March 15, 1991.

Rule 9.14. Petitions for review by the Chief Trial Counsel

(a) Time for filing

The Chief Trial Counsel may petition for review of recommendations and decisions of the State Bar Court as follows:

- (1) From recommendations that a member be suspended, within 60 days of the date the recommendation is filed with the Supreme Court.
- (2) From recommendations that the duration or conditions of probation be modified, or a reinstatement application be granted, within 15 days of the date the recommendation is filed with the Supreme Court.
- (3) From decisions not to place an eligible member on interim suspension, or vacating interim suspension, or a denial of a petition brought under section 6007(c), within 15 days of notice under the rules adopted by the State Bar.

- (4) From decisions dismissing disciplinary proceedings or recommending approval, within 60 days of notice under the rules adopted by the State Bar.

(Subd (a) amended effective January 1, 2007; adopted effective March 15, 1991; previously adopted by the Supreme Court effective December 10, 1990.)

(b) Procedures

Proceedings under this rule with regard to briefing, service of process, and applicable time periods therefor must correspond to proceedings brought under rule 9.13, except that the rights and duties of the member and the State Bar under that rule are reversed.

(Subd (b) amended and relettered effective January 1, 2007; adopted as part of subd (d) effective March 15, 1991; previously adopted by the Supreme Court effective December 10, 1991.)

Rule 9.14 amended and renumbered effective January 1, 2007; adopted as rule 952.5 effective March 15, 1991.

Rule 9.15. Petitions for review by the Committee of Bar Examiners; grounds for review; confidentiality

(a) Petition for review by the Committee of Bar Examiners

The Committee of Bar Examiners may petition for review of the decision of the Review Department of the State Bar Court in moral character proceedings. All petitions under this rule must be filed with the Clerk of the Supreme Court within 60 days after the State Bar Court decision is filed and served on the General Counsel of the State Bar at the San Francisco office of the State Bar. The applicant may file and serve an answer within 15 days of service of the petition. Within 5 days after service of the answer the Committee of Bar Examiners may serve and file a reply. If review is ordered by the Supreme Court, within 45 days after filing of the order, the applicant may file a supplemental brief. Within 15 days after service of the supplemental brief, the petitioner may serve and file a reply brief.

(Subd (a) amended effective January 1, 2007.)

(b) Contents of petition

A petition to the Supreme Court filed under this rule must show that review within the State Bar Court has been exhausted, must address why review is appropriate under one or more of the grounds specified in rule 9.16, and must have attached a copy of the State Bar Court decision for which review is sought.

(Subd (b) amended effective January 1, 2007.)

(c) Service

All petitions, briefs, reply briefs, and other pleadings filed by the Committee of Bar Examiners must include a proof of service by mail to the applicant's last address provided to the State Bar or the applicant's attorney of record, if any. Filings by the applicant must include a proof of service of three copies on the General Counsel of the State Bar at the San Francisco office of the State Bar and one copy on the Clerk of the State Bar Court at the Los Angeles office of the State Bar Court.

(Subd (c) amended effective January 1, 2007; previously amended effective April 20, 1998.)

(d) Confidentiality

All filings under this rule are confidential unless: (1) the applicant waives confidentiality in writing; or (2) the Supreme Court grants review. Once the Supreme Court grants review, filings under this rule are open to the public; however, if good cause exists, the Supreme Court may order portions of the record or the identity of witnesses or other third parties to the proceedings to remain confidential.

(Subd (d) amended effective January 1, 2007; adopted effective April 20, 1998.)

Rule 9.15 amended and renumbered effective January 1, 2007; adopted as rule 952.6 by the Supreme Court effective July 1, 1993, and by the Judicial Council May 6, 1998; previously amended by the Supreme Court effective April 20, 1998.

Rule 9.16. Grounds for review of State Bar Court decisions in the Supreme Court

(a) Grounds

The Supreme Court will order review of a decision of the State Bar Court recommending disbarment or suspension from practice when it appears:

- (1) Necessary to settle important questions of law;
- (2) The State Bar Court has acted without or in excess of jurisdiction;
- (3) Petitioner did not receive a fair hearing;
- (4) The decision is not supported by the weight of the evidence; or
- (5) The recommended discipline is not appropriate in light of the record as a whole.

(Subd (a) amended effective January 1, 2007; adopted by the Supreme Court effective February 1, 1991.)

(b) Denial of review

Denial of review of a decision of the State Bar Court is a final judicial determination on the merits and the recommendation of the State Bar Court will be filed as an order of the Supreme Court.

(Subd (b) amended effective January 1, 2007; adopted by the Supreme Court effective February 1, 1991.)

Rule 9.16 amended and renumbered effective January 1, 2007; adopted as rule 954 effective February 1, 1991.

Rule 9.17. Remand with instructions

At any time before the final disposition of a decision of the State Bar Court filed under Business and Professions Code section 6081, the Supreme Court may remand the matter to the State Bar Court with instructions to conduct such further proceedings as the Supreme Court deems necessary.

Rule 9.17 amended and renumbered effective January 1, 2007; adopted as rule 953.5 effective February 1, 1991.

Rule 9.18. Effective date of disciplinary orders and decisions

(a) Effective date of Supreme Court orders

Unless otherwise ordered, all orders of the Supreme Court imposing discipline or opinions deciding causes involving the State Bar become final 30 days after filing. The Supreme Court may grant a rehearing at any time before the decision or order becomes final. Petitions for rehearing may be filed within 15 days of the date the decision or order was filed. Unless otherwise ordered, when petitions for review under rules 9.13(c) and 9.14(a)(3) are acted upon summarily, the orders of the Supreme Court are final forthwith and do not have law-of-the-case effect in subsequent proceedings in the Supreme Court.

(Subd (a) amended effective January 1, 2007; adopted effective March 15, 1991; previously adopted by the Supreme Court effective December 1, 1990.)

(b) Effect of State Bar Court orders when no review sought

Unless otherwise ordered, if no petition for review is filed within the time allowed by rule 9.13 (a), (b), and (d), or rule 9.14 (a)(1) and (2), as to a recommendation of the State Bar Court for the disbarment, suspension, or reinstatement of a member, the vacation of a stay, or modification of the duration or conditions of a probation, the recommendation of the State Bar Court will be filed as an order of the Supreme Court following the expiration of the time for filing a timely petition. The Clerk of

the Supreme Court will mail notice of this effect to the member and his or her attorney of record, if any, at their respective addresses under Business and Professions Code section 6002.1 and to the State Bar.

(Subd (b) amended effective January 1, 2007; adopted effective March 15, 1991; previously adopted by the Supreme Court effective December 1, 1990.)

(c) Effect of State Bar Court orders in moral character proceedings when no review sought

Unless otherwise ordered, if no petition for review is filed within the time allowed by rule 9.15(a), as to a recommendation of the State Bar Court in moral character proceedings, the recommendation of the State Bar Court will be filed as an order of the Supreme Court following the expiration of the time for filing a timely petition. The Clerk of the Supreme Court will mail notice of this effect to the applicant's last address provided to the State Bar or to the applicant's attorney of record, if any, and to the State Bar.

(Subd (c) amended effective January 1, 2007.)

Rule 9.18 amended and renumbered effective January 1, 2007; adopted as rule 953 effective March 15, 1991; previously amended effective February 1, 1996.

Rule 9.19. Conditions attached to reprovals

(a) Attachment of conditions to reprovals

The State Bar may attach conditions, effective for a reasonable time, to a public or private reproof administered upon a member of the State Bar. Conditions so attached must be based on a finding by the State Bar that protection of the public and the interests of the member will be served thereby. The State Bar when administering the reproof must give notice to the member that failure to comply with the conditions may be punishable.

(Subd (a) amended effective January 1, 2007.)

(b) Sanctions for failure to comply

A member's failure to comply with conditions attached to a public or private reproof may be cause for a separate proceeding for willful breach of rule 9-101 of the Rules of Professional Conduct.

(Subd (b) amended effective January 1, 2007.)

Rule 9.19 amended and renumbered effective January 1, 2007; adopted as rule 956 effective November 18, 1983.

Rule 9.20. Duties of disbarred, resigned, or suspended attorneys

(a) Disbarment, suspension, and resignation orders

The Supreme Court may include in an order disbarring or suspending a member of the State Bar, or accepting his or her resignation, a direction that the member must, within such time limits as the Supreme Court may prescribe:

- (1) Notify all clients being represented in pending matters and any co-counsel of his or her disbarment, suspension, or resignation and his or her consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and, in the absence of co-counsel, also notify the clients to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney or attorneys;
- (2) Deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property;
- (3) Refund any part of fees paid that have not been earned; and
- (4) Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of the disbarment, suspension, or resignation and consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and file a copy of the notice with the court, agency, or tribunal before which the litigation is pending for inclusion in the respective file or files.

(Subd (a) amended effective January 1, 2007; previously amended effective December 1, 1990.)

(b) Notices to clients, co-counsel, opposing counsel, and adverse parties

All notices required by an order of the Supreme Court or the State Bar Court under this rule must be given by registered or certified mail, return receipt requested, and must contain an address where communications may be directed to the disbarred, suspended, or resigned member.

(Subd (b) amended effective January 1, 2007; previously amended effective December 1, 1990.)

(c) Filing proof of compliance

Within such time as the order may prescribe after the effective date of the member's disbarment, suspension, or resignation, the member must file with the

Clerk of the State Bar Court an affidavit showing that he or she has fully complied with those provisions of the order entered under this rule. The affidavit must also specify an address where communications may be directed to the disbarred, suspended, or resigned member.

(Subd (c) amended effective January 1, 2007; previously amended effective December 1, 1990.)

(d) Sanctions for failure to comply

A disbarred or resigned member's willful failure to comply with the provisions of this rule is a ground for denying his or her application for reinstatement or readmission. A suspended member's willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.

(Subd (d) amended effective January 1, 2007; previously relettered and amended effective December 1, 1990.)

Rule 9.20 amended and renumbered effective January 1, 2007; adopted as rule 955 effective April 4, 1973; previously amended effective December 1, 1990.

Rule 9.21. Resignations of members of the State Bar with disciplinary charges pending

(a) General provisions

A member of the State Bar against whom disciplinary charges are pending may tender a written resignation from membership in the State Bar and relinquishment of the right to practice law. The written resignation must be signed and dated by the member at the time it is tendered and must be tendered to the Office of the Clerk, State Bar Court, 1149 South Hill Street, Los Angeles, California 90015. The resignation must be substantially in the form specified in (b) of this rule. In submitting a resignation under this rule, a member of the State Bar agrees to be transferred to inactive membership in the State Bar effective on the filing of the resignation by the State Bar. Within 30 days after filing of the resignation, the member must perform the acts specified in rule 9.20(a)(1)–(4) and (b) and within 40 days after filing of the resignation, the member must file with the Office of the Clerk, State Bar Court, at the above address, the proof of compliance specified in rule 9.20(c). No resignation is effective unless and until it is accepted by the Supreme Court after consideration and recommendation by the State Bar Court.

(Subd (a) amended effective January 1, 2010; previously amended effective January 1, 2007.)

(b) Form of resignation

The member's written resignation must be in substantially the following form:

"I, [*name of member*] against whom charges are pending, hereby resign as a member of the State Bar of California and relinquish all right to practice law in the State of California. I agree that, in the event that this resignation is accepted and I later file a petition for reinstatement, the State Bar will consider in connection therewith all disciplinary matters and proceedings against me at the time this resignation is accepted, in addition to other appropriate matters, I also agree that the Supreme Court may decline to accept my resignation unless I reach agreement with the Chief Trial Counsel on a written stipulation as to facts and conclusions of law regarding the disciplinary matters and proceedings that were pending against me at the time of my resignation. I further agree that, on the filing of this resignation by the Office of the Clerk, State Bar Court, I will be transferred to inactive membership of the State Bar. On such transfer, I acknowledge that I will be ineligible to practice law or to advertise or hold myself out as practicing or as entitled to practice law. I further acknowledge that in the event the Supreme Court does not accept my resignation, I will remain an inactive member of the State Bar, pending any further order of the Supreme Court or the State Bar Court. I further agree that, within 30 days of the filing of the resignation by the Office of the Clerk, State Bar Court, I will perform the acts specified in rule 9.20(a)-(b) of the California Rules of Court, and within 40 days of the date of filing of this resignation by the Office of the Clerk, State Bar Court, I will notify that office as specified in rule 9.20(c) of the California Rules of Court.

(Subd (b) amended effective January 1 2014; previously amended effective January 1, 2007, and January 1, 2010.)

(c) Consideration of resignation by State Bar Court and Supreme Court

When the Office of the Clerk of the State Bar Court receives a member's resignation tendered in conformity with this rule, it must promptly file the resignation. The State Bar Court must thereafter consider the member's resignation and the stipulated facts and conclusions of law, if any, agreed upon between the member and the Chief Trial Counsel, and must recommend to the Supreme Court whether the resignation should be accepted. The State Bars Court's recommendation must be made in light of the grounds set forth in subsection (d) of this rule and, if the State Bar Court recommends acceptance of the resignation notwithstanding the existence of one or more of the grounds set forth in subsection (d), the State Bar Court's recommendation must include an explanation of the reasons for the recommendation that the resignation be accepted. The Office of the Clerk of the State Bar Court must transmit to the Clerk of the Supreme Court, three certified copies of the State Bar Court's recommendation together with the member's resignation, when, by the terms of the State Bar Court's recommendation, the resignation should be transmitted to the Supreme Court.

(Subd (c) amended effective January 1, 2010; previously amended effective January 1, 2007.)

(d) Grounds for rejection of resignation by the Supreme Court

The Supreme Court will make such orders concerning the member's resignation as it deems appropriate. The Supreme Court may decline to accept the resignation based on a report by the State Bar Court that:

- (1) Preservation of necessary testimony is not complete;
- (2) After transfer to inactive status, the member has practiced law or has advertised or held himself or herself out as entitled to practice law;
- (3) The member has failed to perform the acts specified by rule 9.20(a)–(b);
- (4) The member has failed to provide proof of compliance as specified in rule 9.20(c);
- (5) The Supreme Court has filed an order of disbarment as to the member;
- (6) The State Bar Court has filed a decision or opinion recommending the member's disbarment;
- (7) The member has previously resigned or has been disbarred and reinstated to the practice of law;
- (8) The member and the Chief Trial Counsel have not reached agreement on a written stipulation as to facts and conclusions of law regarding the disciplinary matters and proceedings that were pending against the member at the time the resignation was tendered; or
- (9) Acceptance of the resignation of the member will reasonably be inconsistent with the need to protect the public, the courts, or the legal profession.

(Subd (d) amended effective January 1, 2010; previously amended and relettered effective January 1, 2007; adopted as part of subd (c) effective December 14, 1984.)

(e) Rejection of resignation by the Supreme Court

A member whose resignation with charges pending is not accepted by the Supreme Court will remain an inactive member of the State Bar. The member may move the Review Department of the State Bar Court to be restored to active membership, at which time the Office of the Chief Trial Counsel may demonstrate any basis for the member's continued ineligibility to practice law. The Review Department will expedite a motion to be restored to active membership. Any return to active

membership will be conditioned on the member's payment of any due, penalty payments, and restitution owed by the member.

(Subd (e) adopted effective January 1, 2014.)

Rule 9.21 amended effective January 1, 2014; adopted as rule 960 by the Supreme Court effective December 14, 1984; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2010.

Rule 9.22. Suspension of members of the State Bar for failure to comply with judgment or order for child or family support

(a) Annual State Bar recommendation for suspension of delinquent members

Under Family Code section 17520, the State Bar is authorized to transmit to the Supreme Court on an annual basis the names of those members listed by the State Department of Social Services as delinquent in their payments of court-ordered child or family support with a recommendation for their suspension from the practice of law.

(Subd (a) amended effective January 1, 2007.)

(b) Condition for reinstatement of suspended members

A member suspended under this rule may be reinstated only after receipt by the Supreme Court of notification from the State Bar that the member's name has been removed from the State Department of Social Services list.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of subd (a) effective January 31, 1993.)

(c) Additional recommendation for suspension by the State Bar

Under Family Code section 17520(l), the State Bar is further authorized to promptly transmit to the Supreme Court with a recommendation for their suspension from the practice of law the names of those members previously listed by the State Department of Social Services as delinquent in their payments of court-ordered child or family support, who obtained releases under Family Code section 17520(h), and who have subsequently been identified by the Department of Social Services as again being delinquent.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of subd (a) effective January 31, 1993.)

(d) Authorization for the Board of Governors of the State Bar to adopt rules and regulations

The Board of Governors of the State Bar is authorized to adopt such rules and regulations as it deems necessary and appropriate in order to comply with this rule. The rules and regulations of the State Bar must contain procedures governing the notification, suspension, and reinstatement of members of the State Bar in a manner not inconsistent with Family Code section 17520.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (b) effective January 31, 1993.)

Rule 9.22 amended and renumbered effective January 1, 2007; adopted as rule 962 effective January 31, 1993; previously amended by the Supreme Court effective April 1, 1996.

Rule 9.23. Enforcement as money judgment disciplinary orders directing the payment of costs and disciplinary orders requiring reimbursement of the Client Security Fund

(a) Authority to obtain money judgment

Under Business and Professions Code section 6086.10(a) the State Bar is authorized to enforce as a money judgment any disciplinary order assessing costs. Under Business and Professions Code section 6140.5(d) the State Bar is authorized to enforce as a money judgment any disciplinary order requiring reimbursement of the State Bar Client Security Fund.

(b) Duty of clerk of the superior court

The State Bar may file a certified copy of a final disciplinary order assessing costs or requiring reimbursement of the Client Security Fund, along with a certified copy of the certificate of costs and any record of Client Security Fund payments and costs, with the clerk of the superior court of any county. The clerk must immediately enter judgment in conformity with the order.

(c) Compromise of judgment

Motions for the compromise of any judgment entered under this rule must, in the first instance, be filed and heard by the State Bar Court.

(d) Power of the Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court to alter the amounts owed.

Rule 9.23 adopted by the Supreme Court effective April 1, 2007.

Chapter 4. Legal Education

Rule 9.30. Law school study in schools other than those accredited by the examining committee

Rule 9.31. Minimum continuing legal education

Rule 9.30. Law school study in schools other than those accredited by the examining committee

(a) Receipt of credit

A person who seeks to be certified to the Supreme Court for admission in and licensed to practice law under section 6060(e)(2) of the Business and Professions Code may receive credit for:

- (1) Study in a law school in the United States other than one accredited by the examining committee established by the Board of Governors of the State Bar under Business and Professions Code section 6046 only if the law school satisfies the requirements of (b) or (c) of this rule; or
- (2) Instruction in law from a correspondence school only if the correspondence school requires 864 hours of preparation and study per year for four years and satisfies the requirements of (d) of this rule; or
- (3) Study in a law school outside the United States other than one accredited by the examining committee established by the Board of Governors of the State Bar under Business and Professions Code section 6046 only if the examining committee is satisfied that the academic program of such law school is substantially equivalent to that of a law school qualified under (b) of this rule.

(Subd (a) amended effective January 1, 2007; previously amended effective April 2, 1984.)

(b) Requirements for unaccredited law schools in state

A law school in this state that is not accredited by the examining committee must:

- (1) Be authorized to confer professional degrees by the laws of this state;
- (2) Maintain a regular course of instruction in law, with a specified curriculum and regularly scheduled class sessions;
- (3) Require classroom attendance of its students for a minimum of 270 hours a year for at least four years, and further require regular attendance of each student at not less than 80 percent of the regularly scheduled class hours in each course in which such student was enrolled and maintain attendance

records adequate to determine each student's compliance with these requirements;

- (4) Maintain, in a fixed location, physical facilities capable of accommodating the classes scheduled for that location;
- (5) Have an adequate faculty of instructors in law. The faculty will prima facie be deemed adequate if at least 80 percent of the instruction in each academic period is by persons who possess one or more of the following qualifications:
 - (A) Admission to the general practice of the law in any jurisdiction in the United States;
 - (B) Judge of a United States court or a court of record in any jurisdiction in the United States; or
 - (C) Graduation from a law school accredited by the examining committee.
- (6) Own and maintain a library consisting of not less than the following sets of books, all of which must be current and complete:
 - (A) The published reports of the decisions of California courts, with advance sheets and citator;
 - (B) A digest or encyclopedia of California law;
 - (C) An annotated set of the California codes; and
 - (D) A current, standard text or treatise for each course or subject in the curriculum of the school for which such a text or treatise is available.
- (7) Establish and maintain standards for academic achievement, advancement in good standing and graduation, and provide for periodic testing of all students to determine the quality of their performance in relation to such standards; and
- (8) Register with the examining committee, and maintain such records (available for inspection by the examining committee) and file with the examining committee such reports, notices, and certifications as may be required by the rules of the examining committee.

(Subd (b) amended effective January 1, 2007; previously amended effective April 2, 1984.)

(c) Requirements for unaccredited law schools outside the state

A law school in the United States that is outside the state of California and is not accredited by the examining committee must:

- (1) Be authorized to confer professional degrees by the law of the state in which it is located;
- (2) Comply with (b)(2), (3), (4), (5), (7), and (8) of this rule; and
- (3) Own and maintain a library that is comparable in content to that specified in (b)(6) of this rule.

(Subd (c) amended effective January 1, 2007; previously amended effective April 2, 1984.)

(d) Registration and reports

A correspondence law school must register with the examining committee and file such reports, notices, and certifications as may be required by the rules of the examining committee concerning any person whose mailing address is in the state of California or whose application to, contract with, or correspondence with or from the law school indicates that the instruction by correspondence is for the purpose or with the intent of qualifying that person for admission to practice law in California.

(Subd (d) amended effective January 1, 2007.)

(e) Inspections

The examining committee may make such inspection of law schools not accredited by the committee or correspondence schools as may be necessary or proper to give effect to the provisions of Business and Professions Code section 6060, this rule, and the rules of the examining committee.

(Subd (e) amended effective January 1, 2007.)

(f) Application

This rule does not apply to any person who, on the effective date of the rule, had commenced the study of law in a manner authorized by Business and Professions Code section 6060(e) and registered as a law student before January 1, 1976 (as provided in Business and Professions Code section 6060(d) and otherwise satisfies the requirements of Business and Professions Code section 6060(e), provided that after January 1, 1976, credit will be given such person for any study in an unaccredited law school or by correspondence only if the school complies with the requirements of (b)(8) or (d) of this rule, whichever is applicable, and permits inspection under (e) of this rule.

(Subd (f) amended effective January 1, 2007.)

Rule 9.30 amended and renumbered effective January 1, 2007; adopted as rule 957 by the Supreme Court effective October 8, 1975; previously amended effective April 2, 1984.

Rule 9.31. Minimum continuing legal education

(a) Statutory authorization

This rule is adopted under Business and Professions Code section 6070.

(Subd (a) amended effective January 1, 2007.)

(b) State Bar minimum continuing legal education program

The State Bar must establish and administer a minimum continuing legal education program under rules adopted by the Board of Trustees of the State Bar. These rules may provide for carryforward of excess credit hours, staggering of the education requirement for implementation purposes, and retroactive credit for legal education.

(Subd (b) amended effective August 1, 2017; previously amended effective September 27, 2000, and January 1, 2007.)

(c) Minimum continuing legal education requirements

Each active member of the State Bar (1) not exempt under Business and Professions Code section 6070, (2) not a full-time employee of the United States Government, its departments, agencies, and public corporations, acting within the scope of his or her employment, and (3) not otherwise exempt under rules adopted by the Board of Trustees of the State Bar, must, within 36-month periods designated by the State Bar, complete at least 25 hours of legal education approved by the State Bar or offered by a State Bar-approved provider. Four of those hours must address legal ethics. Members may be required to complete legal education in other specified areas within the 25-hour requirement under rules adopted by the State Bar. Each active member must report his or her compliance to the State Bar under rules adopted by the Board of Trustees of the State Bar.

(Subd (c) amended effective August 1, 2017; previously amended effective September 27, 2000, and January 1, 2007.)

(d) Failure to comply with program

A member of the State Bar who fails to satisfy the requirements of the State Bar's minimum continuing legal education program must be enrolled as an inactive member of the State Bar under rules adopted by the Board of Trustees of the State Bar.

(Subd (d) amended effective August 1, 2017; previously amended effective January 1, 2007.)

(e) Fees and penalties

The State Bar has the authority to set and collect appropriate fees and penalties.

(Subd (e) amended effective January 1, 2007.)

(f) One-time expungement of a record of inactive enrollment for failure to comply with program

The State Bar is authorized to expunge a public record of a period of inactive enrollment for failure to comply with the minimum continuing legal education program for those members who meet all of the following criteria:

- (1) The member has not on any previous occasion obtained an expungement under the terms of this rule or rule 9.6;
- (2) The period of inactive enrollment was for 90 days or less;
- (3) The period of inactive enrollment ended at least seven years before the date of expungement;
- (4) The member has no other record of suspension or involuntary inactive enrollment for discipline or otherwise.

(Subd (f) adopted effective August 1, 2017.)

(g) Records to be maintained by State Bar

Under (f) of this rule, the State Bar will remove or delete the record of such period of inactive enrollment from the member's record. Notwithstanding any other provision of this rule, the State Bar must maintain such internal records as are necessary to apply the terms of (f) of this rule and to report to the Commission on Judicial Nominees Evaluation or appropriate governmental entities involved in judicial elections the member's eligibility for a judgeship under the California Constitution, article VI, section 15.

(Subd (g) adopted effective August 1, 2017.)

(h) Duty of disclosure by member

Expungement of the record of a member's period of inactive enrollment under (f) of this rule will not relieve the member of his or her duty to disclose the period of inactive enrollment for purpose of determining the member's eligibility for a judgeship under the California Constitution, article VI, section 15. For all other

purposes, the record of inactive enrollment expunged under (f) of this rule is deemed not to have occurred and the member may answer accordingly any question relating to his or her membership record.

(Subd (h) adopted effective August 1, 2017.)

Rule 9.31 amended effective August 1, 2017; adopted as rule 958 effective December 6, 1990; previously amended effective December 25, 1992; previously amended by the Supreme Court effective September 27, 2000; previously amended and renumbered as rule 9.31 effective January 1, 2007.

Division 3. Legal Specialists

Rule 9.35. Certified legal specialists

Rule 9.35. Certified legal specialists

(a) Definition

A “certified specialist” is a California attorney who holds a current certificate as a specialist issued by the State Bar of California Board of Legal Specialization or any other entity approved by the State Bar to designate specialists.

(b) State Bar Legal Specialization Program

The State Bar must establish and administer a program for certifying legal specialists and may establish a program for certifying entities that certify legal specialists under rules adopted by the Board of Governors of the State Bar.

(Subd (b) amended effective January 1, 2007.)

(c) Authority to practice law

No attorney may be required to obtain certification as a certified specialist as a prerequisite to practicing law in this state. Any attorney, alone or in association with any other attorney, has the right to practice in any field of law in this state and to act as counsel in every type of case, even though he or she is not certified as a specialist.

(Subd (c) amended effective January 1, 2007.)

(d) Failure to comply with program

A certified specialist who fails to comply with the requirements of the Legal Specialization Program of the State Bar will have her or his certification suspended or revoked under rules adopted by the Board of Governors of the State Bar.

(Subd (d) amended effective January 1, 2007.)

(e) Fee and penalty

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

(Subd (e) amended effective January 1, 2007.)

(f) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

(Subd (f) amended effective January 1, 2007.)

Rule 9.35 amended and renumbered effective January 1, 2007; adopted as rule 983.5 effective January 1, 1996.

Division 4. Appearances and Practice by Individuals Who Are Not Members of the State Bar of California

Rule 9.40. Counsel pro hac vice

Rule 9.41. Appearances by military counsel

Rule 9.42. Certified law students

Rule 9.43. Out-of-state attorney arbitration counsel

Rule 9.44. Registered foreign legal consultant

Rule 9.45. Registered legal services attorneys

Rule 9.46. Registered in-house counsel

Rule 9.47. Attorneys practicing law temporarily in California as part of litigation

Rule 9.48. Nonlitigating attorneys temporarily in California to provide legal services

Rule 9.40. Counsel pro hac vice

(a) Eligibility

A person who is not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or the highest court in any state, territory, or insular possession of the United States, and who has been retained to appear in a particular cause pending in a court

of this state, may in the discretion of such court be permitted upon written application to appear as counsel *pro hac vice*, provided that an active member of the State Bar of California is associated as attorney of record. No person is eligible to appear as counsel *pro hac vice* under this rule if the person is:

- (1) A resident of the State of California;
- (2) Regularly employed in the State of California; or
- (3) Regularly engaged in substantial business, professional, or other activities in the State of California.

(Subd (a) amended effective January 1, 2007.)

(b) Repeated appearances as a cause for denial

Absent special circumstances, repeated appearances by any person under this rule is a cause for denial of an application.

(Subd (b) lettered effective January 1, 2007; adopted as part of subd (a) effective September 13, 1972.)

(c) Application

- (1) *Application in superior court*

A person desiring to appear as counsel *pro hac vice* in a superior court must file with the court a verified application together with proof of service by mail in accordance with Code of Civil Procedure section 1013a of a copy of the application and of the notice of hearing of the application on all parties who have appeared in the cause and on the State Bar of California at its San Francisco office. The notice of hearing must be given at the time prescribed in Code of Civil Procedure section 1005 unless the court has prescribed a shorter period.

- (2) *Application in Supreme Court or Court of Appeal*

An application to appear as counsel *pro hac vice* in the Supreme Court or a Court of Appeal must be made as provided in rule 8.54, with proof of service on all parties who have appeared in the cause and on the State Bar of California at its San Francisco office.

(Subd (c) amended and relettered effective January 1, 2007; adopted as part of subd (b) effective September 13, 1972; subd (b) previously amended effective October 3, 1973, September 3, 1986, January 17, 1991, and March 15, 1991.)

(d) Contents of application

The application must state:

- (1) The applicant's residence and office address;
- (2) The courts to which the applicant has been admitted to practice and the dates of admission;
- (3) That the applicant is a member in good standing in those courts;
- (4) That the applicant is not currently suspended or disbarred in any court;
- (5) The title of court and cause in which the applicant has filed an application to appear as counsel *pro hac vice* in this state in the preceding two years, the date of each application, and whether or not it was granted; and
- (6) The name, address, and telephone number of the active member of the State Bar of California who is attorney of record.

(Subd (d) amended and lettered effective January 1, 2007; adopted as part of subd (b) effective September 13, 1972; subd (b) previously amended effective October 3, 1973, September 3, 1986, January 17, 1991, and March 15, 1991.)

(e) Fee for application

An applicant for permission to appear as counsel *pro hac vice* under this rule must pay a reasonable fee not exceeding \$50 to the State Bar of California with the copy of the application and the notice of hearing that is served on the State Bar. The Board of Governors of the State Bar of California will fix the amount of the fee:

- (1) To defray the expenses of administering the provisions of this rule that are applicable to the State Bar and the incidental consequences resulting from such provisions; and
- (2) Partially to defray the expenses of administering the Board's other responsibilities to enforce the provisions of the State Bar Act relating to the competent delivery of legal services and the incidental consequences resulting therefrom.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (c) effective September 3, 1986.)

(f) Counsel *pro hac vice* subject to jurisdiction of courts and State Bar

A person permitted to appear as counsel *pro hac vice* under this rule is subject to the jurisdiction of the courts of this state with respect to the law of this state

governing the conduct of attorneys to the same extent as a member of the State Bar of California. The counsel *pro hac vice* must familiarize himself or herself and comply with the standards of professional conduct required of members of the State Bar of California and will be subject to the disciplinary jurisdiction of the State Bar with respect to any of his or her acts occurring in the course of such appearance. Article 5, chapter 4, division III of the Business and Professions Code and the Rules of Procedure of the State Bar govern in any investigation or proceeding conducted by the State Bar under this rule.

(Subd (f) amended and relettered effective January 1, 2007; previously relettered as subd (d) effective September 3, 1986.)

(g) Supreme Court and Court of Appeal not precluded from permitting argument in a particular case

This rule does not preclude the Supreme Court or a Court of Appeal from permitting argument in a particular case from a person who is not a member of the State Bar, but who is licensed to practice in another jurisdiction and who possesses special expertise in the particular field affected by the proceeding.

(Subd (g) amended and relettered effective January 1, 2007; previously relettered as subd (e) effective September 3, 1986.)

Rule 9.40 amended and renumbered effective January 1, 2007; adopted as rule 983 by the Supreme Court effective September 13, 1972; previously amended effective October 3, 1973, September 3, 1986, January 17, 1991, and March 15, 1991.

Rule 9.41. Appearances by military counsel

(a) Permission to appear

A judge advocate (as that term is defined at 10 United States Code section 801(13)) who is not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or of the highest court in any state, territory, or insular possession of the United States may, in the discretion of a court of this state, be permitted to appear in that court to represent a person in the military service in a particular cause pending before that court, under the Servicemembers Civil Relief Act, 50 United States Code Appendix section 501 et seq., if:

- (1) The judge advocate has been made available by the cognizant Judge Advocate General (as that term is defined at 10 United States Code section 801(1)) or a duly designated representative; and
- (2) The court finds that retaining civilian counsel likely would cause substantial hardship for the person in military service or that person's family; and

- (3) The court appoints a judge advocate as attorney to represent the person in military service under the Servicemembers Civil Relief Act.

Under no circumstances is the determination of availability of a judge advocate to be made by any court within this state, or reviewed by any court of this state. In determining the likelihood of substantial hardship as a result of the retention of civilian counsel, the court may take judicial notice of the prevailing pay scales for persons in the military service.

(Subd (a) amended effective January 1, 2007.)

(b) Notice to parties

The clerk of the court considering appointment of a judge advocate under this rule must provide written notice of that fact to all parties who have appeared in the cause. A copy of the notice, together with proof of service by mail in accordance with Code of Civil Procedure section 1013a, must be filed by the clerk of the court. Any party who has appeared in the matter may file a written objection to the appointment within 10 days of the date on which notice was given unless the court has prescribed a shorter period. If the court determines to hold a hearing in relation to the appointment, notice of the hearing must be given at least 10 days before the date designated for the hearing unless the court has prescribed a shorter period.

(Subd (b) amended effective January 1, 2007.)

(c) Appearing judge advocate subject to court and State Bar jurisdiction

A judge advocate permitted to appear under this rule is subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of California. The judge advocate must become familiar with and comply with the standards of professional conduct required of members of the State Bar of California and is subject to the disciplinary jurisdiction of the State Bar of California. Division 3, chapter 4, article 5 of the Business and Professions Code and the Rules of Procedure of the State Bar of California govern any investigation or proceeding conducted by the State Bar under this rule.

(Subd (c) amended effective January 1, 2007.)

(d) Appearing judge advocate subject to rights and obligations of State Bar members concerning professional privileges

A judge advocate permitted to appear under this rule is subject to the rights and obligations with respect to attorney-client privilege, work-product privilege, and other professional privileges to the same extent as a member of the State Bar of California.

(Subd (d) amended effective January 1, 2007.)

Rule 9.41 amended and renumbered effective January 1, 2007; adopted as rule 983.1 by the Supreme Court effective February 19, 1992; adopted by the Judicial Council effective February 21, 1992.

Rule 9.42. Certified law students

(a) Definitions

- (1) A “certified law student” is a law student who has a currently effective certificate of registration as a certified law student from the State Bar.
- (2) A “supervising attorney” is a member of the State Bar who agrees to supervise a certified law student under rules established by the State Bar and whose name appears on the application for certification.

(Subd (a) amended effective January 1, 2007.)

(b) State Bar Certified Law Student Program

The State Bar must establish and administer a program for registering law students under rules adopted by the Board of Governors of the State Bar.

(Subd (b) amended effective January 1, 2007.)

(c) Eligibility for certification

To be eligible to become a certified law student, an applicant must:

- (1) Have successfully completed one full year of studies (minimum of 270 hours) at a law school accredited by the American Bar Association or the State Bar of California, or both, or have passed the first year law students’ examination;
- (2) Have been accepted into, and be enrolled in, the second, third, or fourth year of law school in good academic standing or have graduated from law school, subject to the time period limitations specified in the rules adopted by the Board of Governors of the State Bar; and
- (3) Have either successfully completed or be currently enrolled in and attending academic courses in evidence and civil procedure.

(d) Permitted activities

Subject to all applicable rules, regulations, and statutes, a certified law student may:

- (1) Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the certified law student:
 - (A) Obtains the approval of the supervising attorney to engage in the activities;
 - (B) Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the certified law student; and
 - (C) Performs the activities under the general supervision of the supervising attorney;

- (2) Appear on behalf of the client in depositions, provided that the certified law student:
 - (A) Obtains the approval of the supervising attorney to engage in the activity;
 - (B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney); and
 - (C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student;

- (3) Appear on behalf of the client in any public trial, hearing, arbitration, or proceeding, or before any arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, provided that the certified law student:
 - (A) Obtains the approval of the supervising attorney to engage in the activity;
 - (B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney);

- (C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student; and
 - (D) As a condition to such appearance, either presents a copy of the consent form to the arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, or files a copy of the consent form in the court case file; and
- (4) Appear on behalf of a government agency in the prosecution of criminal actions classified as infractions or other such minor criminal offenses with a maximum penalty or a fine equal to the maximum fine for infractions in California, including any public trial:
- (A) Subject to approval by the court, commissioner, referee, hearing officer, or magistrate presiding at such public trial; and
 - (B) Without the personal appearance of the supervising attorney or any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney, but only if the supervising attorney or the designated attorney has approved in writing the performance of such acts by the certified law student and is immediately available to attend the proceeding.

(Subd (d) amended effective January 1, 2007.)

(e) Failure to comply with program

A certified law student who fails to comply with the requirements of the State Bar Certified Law Student Program must have his or her certification withdrawn under rules adopted by the Board of Governors of the State Bar.

(Subd (e) amended effective January 1, 2007.)

(f) Fee and penalty

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

(Subd (g) amended effective January 1, 2007.)

Rule 9.42 amended and renumbered effective January 1, 2007; adopted as rule 983.2 by the Supreme Court effective December 29, 1993.

Rule 9.43. Out-of-state attorney arbitration counsel

(a) Definition

An “out-of-state attorney arbitration counsel” is an attorney who is:

- (1) Not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or the highest court in any state, territory, or insular possession of the United States, and who has been retained to appear in the course of, or in connection with, an arbitration proceeding in this state;
- (2) Has served a certificate in accordance with the requirements of Code of Civil Procedure section 1282.4 on the arbitrator, the arbitrators, or the arbitral forum, the State Bar of California, and all other parties and counsel in the arbitration whose addresses are known to the attorney; and
- (3) Whose appearance has been approved by the arbitrator, the arbitrators, or the arbitral forum.

(Subd (a) amended effective January 1, 2007.)

(b) State Bar Out-of-State Attorney Arbitration Counsel Program

The State Bar of California must establish and administer a program to implement the State Bar of California’s responsibilities under Code of Civil Procedure section 1282.4. The State Bar of California’s program may be operative only as long as the applicable provisions of Code of Civil Procedure section 1282.4 remain in effect.

(Subd (b) amended effective January 1, 2007.)

(c) Eligibility to appear as an out-of-state attorney arbitration counsel

To be eligible to appear as an out-of-state attorney arbitration counsel, an attorney must comply with all of the applicable provisions of Code of Civil Procedure section 1282.4 and the requirements of this rule and the related rules and regulations adopted by the State Bar of California.

(Subd (c) amended effective January 1, 2007.)

(d) Discipline

An out-of-state attorney arbitration counsel who files a certificate containing false information or who otherwise fails to comply with the standards of professional conduct required of members of the State Bar of California is subject to the disciplinary jurisdiction of the State Bar with respect to any of his or her acts occurring in the course of the arbitration.

(Subd (d) amended effective January 1, 2007.)

(e) Disqualification

Failure to timely file and serve a certificate or, absent special circumstances, appearances in multiple separate arbitration matters are grounds for disqualification from serving in the arbitration in which the certificate was filed.

(Subd (e) amended effective January 1, 2007.)

(f) Fee

Out-of-state attorney arbitration counsel must pay a reasonable fee not exceeding \$50 to the State Bar of California with the copy of the certificate that is served on the State Bar.

(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

(Subd (g) amended effective January 1, 2007.)

Rule 9.43 amended and renumbered effective January 1, 2007; adopted as rule 983.4 by the Supreme Court effective July 1, 1999.

Rule 9.44. Registered foreign legal consultant

(a) Definition

A “registered foreign legal consultant” is a person who:

- (1) Is admitted to practice and is in good standing as an attorney or counselor-at-law or the equivalent in a foreign country; and
- (2) Has a currently effective certificate of registration as a registered foreign legal consultant from the State Bar.

(Subd (a) amended effective January 1, 2007.)

(b) State Bar Registered Foreign Legal Consultant Program

The State Bar must establish and administer a program for registering foreign attorneys or counselors-at-law or the equivalent under rules adopted by the Board of Governors of the State Bar.

(Subd (b) amended effective January 1, 2007.)

(c) Eligibility for certification

To be eligible to become a registered foreign legal consultant, an applicant must:

- (1) Present satisfactory proof that the applicant has been admitted to practice and has been in good standing as an attorney or counselor-at-law or the equivalent in a foreign country for at least four of the six years immediately preceding the application and, while so admitted, has actually practiced the law of that country;
- (2) Present satisfactory proof that the applicant possesses the good moral character requisite for a person to be licensed as a member of the State Bar of California;
- (3) Agree to comply with the provisions of the rules adopted by the Board of Governors of the State Bar relating to security for claims against a foreign legal consultant by his or her clients;
- (4) Agree to comply with the provisions of the rules adopted by the Board of Governors of the State Bar relating to maintaining an address of record for State Bar purposes;
- (5) Agree to notify the State Bar of any change in his or her status in any jurisdiction where he or she is admitted to practice or of any discipline with respect to such admission;
- (6) Agree to be subject to the jurisdiction of the courts of this state with respect to the laws of the State of California governing the conduct of attorneys, to the same extent as a member of the State Bar of California;
- (7) Agree to become familiar with and comply with the standards of professional conduct required of members of the State Bar of California;
- (8) Agree to be subject to the disciplinary jurisdiction of the State Bar of California;

- (9) Agree to be subject to the rights and obligations with respect to attorney client privilege, work-product privilege, and other professional privileges, to the same extent as attorneys admitted to practice law in California; and
- (10) Agree to comply with the laws of the State of California, the rules and regulations of the State Bar of California, and these rules.

(Subd (c) amended effective January 1, 2007.)

(d) Authority to practice law

Subject to all applicable rules, regulations, and statutes, a registered foreign legal consultant may render legal services in California, except that he or she may not:

- (1) Appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer;
- (2) Prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;
- (3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident or any instrument relating to the administration of a decedent's estate in the United States;
- (4) Prepare any instrument in respect of the marital relations, rights, or duties of a resident of the United States, or the custody or care of the children of a resident; or
- (5) Otherwise render professional legal advice on the law of the State of California, any other state of the United States, the District of Columbia, the United States, or of any jurisdiction other than the jurisdiction named in satisfying the requirements of (c) of this rule, whether rendered incident to preparation of legal instruments or otherwise.

(Subd (d) amended effective January 1, 2007.)

(e) Failure to comply with program

A registered foreign legal consultant who fails to comply with the requirements of the State Bar Registered Foreign Legal Consultant Program will have her or his certification suspended or revoked under rules adopted by the Board of Governors of the State Bar.

(Subd (e) amended effective January 1, 2007.)

(f) Fee and penalty

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

(Subd (g) amended effective January 1, 2007.)

Rule 9.44 amended and renumbered effective January 1, 2007; adopted as rule 988 effective December 1, 1993.

Rule 9.45. Registered legal services attorneys

(a) Definitions

The following definitions apply in this rule:

- (1) “Qualifying legal services provider” means either of the following, provided that the qualifying legal services provider follows quality-control procedures approved by the State Bar of California:
 - (A) A nonprofit entity incorporated and operated exclusively in California that as its primary purpose and function provides legal services without charge in civil matters to indigent persons, especially underserved client groups, such as the elderly, persons with disabilities, juveniles, and non-English-speaking persons; or
 - (B) A program operated exclusively in California by a nonprofit law school approved by the American Bar Association or accredited by the State Bar of California that has operated for at least two years at a cost of at least \$20,000 per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.
- (2) “Active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency” means an attorney who:
 - (A) Is a member in good standing of the entity governing the practice of law in each jurisdiction in which the member is licensed to practice law;

- (B) Remains an active member in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered legal services attorney in California; and
- (C) Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.

(Subd (a) relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)

(b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule may practice law in California only while working, with or without pay, at a qualifying legal services provider, as defined in this rule, and, at that institution and only on behalf of its clients, may engage, under supervision, in all forms of legal practice that are permissible for a member of the State Bar of California.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Requirements

For an attorney to practice law under this rule, the attorney must:

- (1) Be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (2) Register with the State Bar of California and file an Application for Determination of Moral Character;
- (3) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
 - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
 - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- (4) Comply with the rules adopted by the Board of Governors relating to the State Bar Registered Legal Services Attorney Program;

- (5) Practice law exclusively for a single qualifying legal services provider, except that, if so qualified, an attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel;
- (6) Practice law under the supervision of an attorney who is employed by the qualifying legal services provider and who is a member in good standing of the State Bar of California;
- (7) Abide by all of the laws and rules that govern members of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- (8) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that members of the State Bar of California must complete every three years; and
- (9) Not have taken and failed the California bar examination within five years immediately preceding application to register under this rule.

(Subd (c) relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Application

To qualify to practice law as a registered legal services attorney, the attorney must:

- (1) Register as an attorney applicant and file an Application for Determination of Moral Character with the Committee of Bar Examiners;
- (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision at a qualifying legal services provider during the time he or she practices law as a registered legal services attorney in California, except that, if so qualified, the attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel; and
- (3) Submit to the State Bar of California a declaration signed by a qualifying supervisor on behalf of the qualifying legal services provider in California attesting that the applicant will work, with or without pay, as an attorney for the organization; that the applicant will be supervised as specified in this rule; and that the qualifying legal services provider and the supervising attorney assume professional responsibility for any work performed by the applicant under this rule.

(Subd (d) relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Duration of practice

An attorney may practice for no more than a total of three years under this rule.

(Subd (e) relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Application and registration fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered legal services attorneys.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(g) State Bar Registered Legal Services Attorney Program

The State Bar may establish and administer a program for registering California legal services attorneys under rules adopted by the Board of Governors of the State Bar.

(Subd (g) relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

(h) Supervision

To meet the requirements of this rule, an attorney supervising a registered legal services attorney:

- (1) Must be an active member in good standing of the State Bar of California;
- (2) Must have actively practiced law in California and been a member in good standing of the State Bar of California for at least the two years immediately preceding the time of supervision;
- (3) Must have practiced law as a full-time occupation for at least four years;
- (4) Must not supervise more than two registered legal services attorneys concurrently;
- (5) Must assume professional responsibility for any work that the registered legal services attorney performs under the supervising attorney's supervision;

- (6) Must assist, counsel, and provide direct supervision of the registered legal services attorney in the activities authorized by this rule and review such activities with the supervised attorney, to the extent required for the protection of the client;
- (7) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered legal services attorney before their filing, and must read and approve any documents prepared by the registered legal services attorney for execution by any person who is not a member of the State Bar of California before their submission for execution; and
- (8) May, in his or her absence, designate another attorney meeting the requirements of (1) through (7) to provide the supervision required under this rule.

(Subd (h) relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

(i) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)

(j) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members of the State Bar of California.

(Subd (j) relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)

Rule 9.45 amended and renumbered effective January 1, 2007; adopted as rule 964 by the Supreme Court effective November 15, 2004.

Rule 9.46. Registered in-house counsel

(a) Definitions

The following definitions apply to terms used in this rule:

- (1) “Qualifying institution” means a corporation, a partnership, an association, or other legal entity, including its subsidiaries and organizational affiliates.

Neither a governmental entity nor an entity that provides legal services to others can be a qualifying institution for purposes of this rule. A qualifying institution must:

- (A) Employ at least 10 employees full time in California; or
 - (B) Employ in California an attorney who is an active member in good standing of the State Bar of California.
- (2) “Active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency” means an attorney who meets all of the following criteria:
- (A) Is a member in good standing of the entity governing the practice of law in each jurisdiction in which the member is licensed to practice law;
 - (B) Remains an active member in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency, other than California, while practicing law as registered in-house counsel in California; and
 - (C) Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.

(Subd (a) relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)

(b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is:

- (1) Permitted to provide legal services in California only to the qualifying institution that employs him or her;
- (2) Not permitted to make court appearances in California state courts or to engage in any other activities for which *pro hac vice* admission is required if they are performed in California by an attorney who is not a member of the State Bar of California; and
- (3) Not permitted to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Requirements

For an attorney to practice law under this rule, the attorney must:

- (1) Be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (2) Register with the State Bar of California and file an Application for Determination of Moral Character;
- (3) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
 - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
 - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- (4) Comply with the rules adopted by the Board of Governors relating to the State Bar Registered In-House Counsel Program;
- (5) Practice law exclusively for a single qualifying institution, except that, while practicing under this rule, the attorney may, if so qualified, simultaneously practice law as a registered legal services attorney;
- (6) Abide by all of the laws and rules that govern members of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- (7) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that members of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements applicable to all members of the State Bar; and
- (8) Reside in California.

(Subd (c) relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Application

To qualify to practice law as registered in-house counsel, an attorney must:

- (1) Register as an attorney applicant and file an Application for Determination of Moral Character with the Committee of Bar Examiners;

- (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than on behalf of the qualifying institution during the time he or she is registered in-house counsel in California, except that if so qualified, the attorney may, while practicing under this rule, simultaneously practice law as a registered legal services attorney; and
- (3) Submit to the State Bar of California a declaration signed by an officer, a director, or a general counsel of the applicant's employer, on behalf of the applicant's employer, attesting that the applicant is employed as an attorney for the employer, that the nature of the employment conforms to the requirements of this rule, that the employer will notify the State Bar of California within 30 days of the cessation of the applicant's employment in California, and that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.

(Subd (d) relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Duration of practice

A registered in-house counsel must renew his or her registration annually. There is no limitation on the number of years in-house counsel may register under this rule. Registered in-house counsel may practice law under this rule only for as long as he or she remains employed by the same qualifying institution that provided the declaration in support of his or her application. If an attorney practicing law as registered in-house counsel leaves the employment of his or her employer or changes employers, he or she must notify the State Bar of California within 30 days. If an attorney wishes to practice law under this rule for a new employer, he or she must first register as in-house counsel for that employer.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Eligibility

An application to register under this rule may not be denied because:

- (1) The attorney applicant has practiced law in California as in-house counsel before the effective date of this rule.

- (2) The attorney applicant is practicing law as in-house counsel at or after the effective date of this rule, provided that the attorney applies under this rule within six months of its effective date.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(g) Application and registration fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered in-house counsel.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

(h) State Bar Registered In-House Counsel Program

The State Bar must establish and administer a program for registering California in-house counsel under rules adopted by the Board of Governors.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

(i) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)

(j) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members of the State Bar of California.

(Subd (j) relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)

Rule 9.46 amended and renumbered effective January 1, 2007; adopted as rule 965 by the Supreme Court effective November 15, 2004.

Rule 9.47. Attorneys practicing law temporarily in California as part of litigation

(a) Definitions

The following definitions apply to the terms used in this rule:

- (1) “A formal legal proceeding” means litigation, arbitration, mediation, or a legal action before an administrative decision-maker.
- (2) “Authorized to appear” means the attorney is permitted to appear in the proceeding by the rules of the jurisdiction in which the formal legal proceeding is taking place or will be taking place.
- (3) “Active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency” means an attorney who meets all of the following criteria:
 - (A) Is a member in good standing of the entity governing the practice of law in each jurisdiction in which the member is licensed to practice law;
 - (B) Remains an active member in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency while practicing law under this rule; and
 - (C) Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.

(Subd (a) relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

(b) Requirements

For an attorney to practice law under this rule, the attorney must:

- (1) Maintain an office in a United States jurisdiction other than California and in which the attorney is licensed to practice law;
- (2) Already be retained by a client in the matter for which the attorney is providing legal services in California, except that the attorney may provide legal advice to a potential client, at the potential client’s request, to assist the client in deciding whether to retain the attorney;
- (3) Indicate on any Web site or other advertisement that is accessible in California either that the attorney is not a member of the State Bar of California or that the attorney is admitted to practice law only in the states listed; and
- (4) Be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency.

(Subd (b) relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Permissible activities

An attorney meeting the requirements of this rule, who complies with all applicable rules, regulations, and statutes, is not engaging in the unauthorized practice of law in California if the attorney's services are part of:

- (1) A formal legal proceeding that is pending in another jurisdiction and in which the attorney is authorized to appear;
- (2) A formal legal proceeding that is anticipated but is not yet pending in California and in which the attorney reasonably expects to be authorized to appear;
- (3) A formal legal proceeding that is anticipated but is not yet pending in another jurisdiction and in which the attorney reasonably expects to be authorized to appear; or
- (4) A formal legal proceeding that is anticipated or pending and in which the attorney's supervisor is authorized to appear or reasonably expects to be authorized to appear.

The attorney whose anticipated authorization to appear in a formal legal proceeding serves as the basis for practice under this rule must seek that authorization promptly after it becomes possible to do so. Failure to seek that authorization promptly, or denial of that authorization, ends eligibility to practice under this rule.

(Subd (c) relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Restrictions

To qualify to practice law in California under this rule, an attorney must not:

- (1) Hold out to the public or otherwise represent that he or she is admitted to practice law in California;
- (2) Establish or maintain a resident office or other systematic or continuous presence in California for the practice of law;
- (3) Be a resident of California;
- (4) Be regularly employed in California;

- (5) Regularly engage in substantial business or professional activities in California; or
- (6) Have been disbarred, have resigned with charges pending, or be suspended from practicing law in any other jurisdiction.

(Subd (d) relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Conditions

By practicing law in California under this rule, an attorney agrees that he or she is providing legal services in California subject to:

- (1) The jurisdiction of the State Bar of California;
- (2) The jurisdiction of the courts of this state to the same extent as is a member of the State Bar of California; and
- (3) The laws of the State of California relating to the practice of law, the State Bar Rules of Professional Conduct, the rules and regulations of the State Bar of California, and these rules.

(Subd (e) relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(g) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members of the State Bar of California.

(Subd (g) relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

Rule 9.47 amended and renumbered effective January 1, 2007; adopted as rule 966 by the Supreme Court effective November 15, 2004.

Rule 9.48. Nonlitigating attorneys temporarily in California to provide legal services

(a) Definitions

The following definitions apply to terms used in this rule:

- (1) “A transaction or other nonlitigation matter” includes any legal matter other than litigation, arbitration, mediation, or a legal action before an administrative decision-maker.
- (2) “Active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency” means an attorney who meets all of the following criteria:
 - (A) Is a member in good standing of the entity governing the practice of law in each jurisdiction in which the member is licensed to practice law;
 - (B) Remains an active member in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law under this rule; and
 - (C) Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.

(Subd (a) relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)

(b) Requirements

For an attorney to practice law under this rule, the attorney must:

- (1) Maintain an office in a United States jurisdiction other than California and in which the attorney is licensed to practice law;
- (2) Already be retained by a client in the matter for which the attorney is providing legal services in California, except that the attorney may provide legal advice to a potential client, at the potential client’s request, to assist the client in deciding whether to retain the attorney;
- (3) Indicate on any Web site or other advertisement that is accessible in California either that the attorney is not a member of the State Bar of California or that the attorney is admitted to practice law only in the states listed; and

- (4) Be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency.

(Subd (b) relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Permissible activities

An attorney who meets the requirements of this rule and who complies with all applicable rules, regulations, and statutes is not engaging in the unauthorized practice of law in California if the attorney:

- (1) Provides legal assistance or legal advice in California to a client concerning a transaction or other nonlitigation matter, a material aspect of which is taking place in a jurisdiction other than California and in which the attorney is licensed to provide legal services;
- (2) Provides legal assistance or legal advice in California on an issue of federal law or of the law of a jurisdiction other than California to attorneys licensed to practice law in California; or
- (3) Is an employee of a client and provides legal assistance or legal advice in California to the client or to the client's subsidiaries or organizational affiliates.

(Subd (c) relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Restrictions

To qualify to practice law in California under this rule, an attorney must not:

- (1) Hold out to the public or otherwise represent that he or she is admitted to practice law in California;
- (2) Establish or maintain a resident office or other systematic or continuous presence in California for the practice of law;
- (3) Be a resident of California;
- (4) Be regularly employed in California;
- (5) Regularly engage in substantial business or professional activities in California; or
- (6) Have been disbarred, have resigned with charges pending, or be suspended from practicing law in any other jurisdiction.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Conditions

By practicing law in California under this rule, an attorney agrees that he or she is providing legal services in California subject to:

- (1) The jurisdiction of the State Bar of California;
- (2) The jurisdiction of the courts of this state to the same extent as is a member of the State Bar of California; and
- (3) The laws of the State of California relating to the practice of law, the State Bar Rules of Professional Conduct, the rules and regulations of the State Bar of California, and these rules.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Scope of practice

An attorney is permitted by this rule to provide legal assistance or legal services concerning only a transaction or other nonlitigation matter.

(Subd (f) relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(g) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

(h) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members of the State Bar of California.

(Subd (h) relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

Rule 9.48 amended and renumbered effective January 1, 2007; adopted as rule 967 by the Supreme Court effective November 15, 2004.

Division 5. Censure, Removal, Retirement, or Private Admonishment of Judges

Rule 9.60. Review of determinations by the Commission on Judicial Performance

Rule 9.61. Proceedings involving public or private admonishment, censure, removal, or retirement of a judge of the Supreme Court

Rule 9.60. Review of determinations by the Commission on Judicial Performance

(a) Time for petition for review to Supreme Court

A petition to the Supreme Court by a judge or former judge to review a determination by the Commission on Judicial Performance to retire, remove, censure, admonish, or disqualify the judge or former judge must be served and filed within 60 days after:

- (1) The Commission, under its rules, notifies the judge or former judge that its determination has been filed or entered in its records; or
- (2) The determination becomes final as to the Commission under its rules, whichever event is later.

(Subd (a) amended effective January 1, 2007.)

(b) Time for answer to petition for review and reply

Within 45 days after service of the petition, the Commission may serve and file an answer. Within 20 days after service of the answer, the judge or former judge may serve and file a reply. Each petition, answer, or reply submitted for filing must be accompanied by proof of service, including service on the Commission of three copies of any petition or reply filed by a judge or former judge. Extensions of time to file the petition, answer, or reply are disfavored and will be granted only upon a specific and affirmative showing of good cause. Good cause does not include ordinary press of business.

(Subd (b) lettered effective January 1, 2007; adopted as part of subd (a) effective December 1, 1996.)

(c) Contents and form

The petition, answer, and reply must address both the appropriateness of review and the merits of the Commission's determination, and they will serve as briefs on the merits in the event review is granted. Except as provided in these rules, the form of the petition, answer, and reply must, insofar as practicable, conform to rule

8.504 except that the lengths of the petition, answer, and reply must conform to the limits specified in rule 8.204(c). Each copy of the petition must contain:

- (1) A copy of the Commission’s determination;
- (2) A copy of the notice of filing or entry of the determination in the records of the Commission;
- (3) A copy of any findings of fact and conclusions of law; and
- (4) A cover that bears the conspicuous notation “PETITION FOR REVIEW OF DETERMINATION BY COMMISSION ON JUDICIAL PERFORMANCE (RULE 9.60)” or words of like effect.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b) effective December 1, 1996.)

(d) Transmission of the record

Promptly upon the service and filing of the petition, the Commission must transmit to the Clerk of the Supreme Court the original record, including a transcript of the testimony, briefs, and all original papers and exhibits on file in the proceeding.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c) effective December 1, 1996.)

(e) Applicable rules on review

In the event review is granted, the rules adopted by the Judicial Council governing appeals from the superior court in civil cases, other than rule 8.272 relating to costs, apply to proceedings in the Supreme Court for review of a determination of the Commission except where express provision is made to the contrary or where such application would otherwise be clearly impracticable or inappropriate.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective December 1, 1996.)

Rule 9.60 amended and renumbered effective January 1, 2007; adopted as rule 935 effective December 1, 1996.

Rule 9.61. Proceedings involving public or private admonishment, censure, removal, or retirement of a judge of the Supreme Court

(a) Selection of appellate tribunal

Immediately on the filing of a petition to review a determination by the Commission on Judicial Performance to retire, remove, censure, admonish, or

disqualify a justice of the Supreme Court, the Clerk of the Supreme Court must select, by lot, seven Court of Appeal justices who must elect one of their number presiding justice and perform the duties of the tribunal created under article VI, section 18(f) of the Constitution. This selection must be made upon notice to the Commission, the justice, and the counsel of record in a proceeding open to the public. No court of appeal justice who has served as a master or a member of the Commission in the particular proceeding or is otherwise disqualified may serve on the tribunal.

(Subd (a) amended effective January 1, 2007; previously amended effective December 1, 1996.)

(b) Clerk of Supreme Court as clerk of tribunal

The Clerk of the Supreme Court serves as the clerk of the tribunal.

(Subd (b) amended effective January 1, 2007.)

Rule 9.61 amended and renumbered effective January 1, 2007; adopted as rule 921 effective November 13, 1976; previously amended and renumbered as rule 936 effective December 1, 1996.

Division 6. Judicial Ethics Opinions

Title 9, Rules on Law Practice, Attorneys, and Judges—Division 6, Judicial Ethics Opinions adopted effective July 1, 2009.

Rule 9.80. Committee on Judicial Ethics Opinions

Rule 9.80. Committee on Judicial Ethics Opinions

(a) Purpose

The Supreme Court has established the Committee on Judicial Ethics Opinions to provide judicial ethics advisory opinions and advice to judicial officers and candidates for judicial office.

(b) Committee determinations

In providing its opinions and advice, the committee acts independently of the Supreme Court, the Commission on Judicial Performance, and all other entities. The committee will rely on the California Code of Judicial Ethics, the decisions of the Supreme Court and of the Commission on Judicial Performance, and other relevant sources in its opinions and advice.

(c) Membership

The committee consists of twelve members appointed by the Supreme Court, including at least one justice from a court of appeal and one member who is a subordinate judicial officer employed full-time by a superior court. The remaining members must be justices of a court of appeal or judges of a superior court, active or retired. No more than a total of two retired justices or judges may serve on the committee at one time, except that if an active justice or judge retires during his or her term, he or she will be permitted to complete his or her term. A retired justice or judge may only serve so long as he or she is not an active member of the State Bar of California and is not engaged in privately compensated dispute resolution activities.

(d) Terms

- (1) Except as provided in (2), all full terms are for four years. Appointments to fill a vacancy will be for the balance of the term vacated. A member may be reappointed by the Supreme Court or may continue to serve until a successor is appointed. Members may serve no more than three terms, except that members who are appointed to fill a vacancy for the balance of a term are eligible to serve three full terms in addition to the remainder of the term for which they were appointed.
- (2) To create staggered terms among the members of the committee, the Supreme Court appointed initial members of the committee as follows:
 - (A) Three members each to serve an initial term of five years. The Court may reappoint these members to two full terms.
 - (B) Three members each to serve an initial term of four years. The Court may reappoint these members to two full terms.
 - (C) Three members each to serve an initial term of three years. The Court may reappoint these members to two full terms.
 - (D) Three members each to serve an initial term of two years. The Court may reappoint these members to two full terms.
- (3) Committee members may not simultaneously serve as members of the Commission on Judicial Performance or the California Judges Association's Judicial Ethics Committee. If a member of the committee accepts appointment to serve on one of these entities, that member will be deemed to have resigned from the committee and the Supreme Court will appoint a replacement.

(Subd (d) amended effective January 1, 2016; adopted effective July 1, 2009.)

(e) Powers and duties

The committee is authorized to provide ethics advice to judicial officers and candidates for judicial office, including formal written opinions, informal written opinions, and oral advice. Specifically, the committee is authorized to:

- (1) Issue formal written opinions, informal written opinions, and oral advice on proper judicial conduct under the California Code of Judicial Ethics, the California Constitution, statutes, and any other authority deemed appropriate by the committee.
- (2) Make recommendations to the Supreme Court for amending the Code of Judicial Ethics or these rules;
- (3) Make recommendations regarding appropriate subjects for judicial education programs; and
- (4) Make other recommendations to the Supreme Court as deemed appropriate by the committee or as requested by the Court.

(f) Referrals to California Judges Association’s Judicial Ethics Committee

The committee may adopt a revocable policy of referring requests for oral advice, with conditions and exceptions as approved by the committee, to the California Judges Association’s Judicial Ethics Committee.

(g) Chair and vice-chair

The Supreme Court will appoint a chair, and vice-chair from the members of the committee to serve a term of four years each. The chair and the vice-chair may be reappointed by the Supreme Court or may continue to serve until a successor is appointed. The chair and vice-chair may serve no more than three terms each. The chair is authorized to call meetings as needed, and to otherwise coordinate the work of the committee.

(Subd (g) amended effective January 1, 2016; adopted effective July 1, 2009.)

(h) Confidentiality

Communications to and from the committee are confidential except as described herein. Encouraging judicial officers and candidates for judicial office to seek ethics opinions and advice from the committee will promote ethical conduct and the fair administration of justice. Establishing the confidentiality of committee proceedings and communications to and from the committee is critical to encourage judicial officers and candidates for judicial office to seek ethics opinions and advice from the committee. The necessity for preserving the confidentiality of these proceedings and communications to and from the committee outweighs the

necessity for disclosure in the interest of justice. Therefore, to promote ethical conduct by judicial officers and candidates for judicial office and to encourage them to seek ethics opinions and advice from the committee, the following confidentiality requirements, and exceptions, apply to proceedings and other matters under this rule:

- (1) Notwithstanding any other provision of law, and with the exception of formal written opinions and summaries of informal written opinions and oral advice, all opinions, inquiries, replies, circulated drafts, records, documents, writings, files, communications with staff, and proceedings of the committee are confidential. All communications, written or verbal, from or to the person or entity requesting an opinion or advice are deemed to be official information within the meaning of the California Evidence Code. In addition, all communications and documents regarding opinions or advice of the California Judges Association forwarded by the California Judges Association to the committee are deemed to be confidential information.
- (2) Members of the committee or its staff may not disclose outside the committee or its staff any confidential information, including identifying information, obtained by the committee or its staff concerning an individual whose inquiry or conduct was the subject of any communication with the committee or its staff.
- (3) A judicial officer or candidate for judicial office may waive confidentiality; any such waiver must be in writing. If the judicial officer or candidate making the request for an opinion or advice waives confidentiality or asserts reliance on an opinion or advice in judicial or attorney discipline proceedings, such opinion or advice no longer is confidential under these rules. Notwithstanding any waiver, committee deliberations and records are confidential.

(i) Opinion requests

- (1) The committee may issue formal written opinions on any subject it deems appropriate. Any person or entity may suggest to the committee, in writing, topics to be addressed in a formal written opinion.
- (2) Only judicial officers and candidates for judicial office may request informal written opinions and oral advice.
- (3) A judicial officer or candidate for judicial office requesting a written opinion, formal or informal, must submit the request in writing, including by electronic mail. The request must be in a form approved by the committee and must describe the facts and discuss the issues presented in the request. The identity, organizational affiliation, and geographic location of persons requesting opinions are confidential.

- (4) A judicial officer or candidate for judicial office requesting oral advice may communicate in person, in writing (including by electronic mail), or by telephone to committee staff or any member of the committee.
- (5) A judicial officer or candidate for judicial office requesting an opinion or advice must disclose to the committee whether the issue that is the subject of the inquiry is also the subject of pending litigation involving the inquiring judicial officer or candidate or a pending Commission on Judicial Performance or State Bar disciplinary proceeding involving the inquiring judicial officer or candidate.

(j) Consideration of requests

- (1) The committee will determine whether a written request for an opinion should be resolved with a formal written opinion, an informal written opinion, oral advice, or any combination thereof. The committee may decline to issue an opinion or advice.
- (2) Eight members must vote affirmatively to adopt a formal written opinion. After the committee authorizes a formal written opinion and before it becomes final, it will be posted in draft form on the committee Web site and made available for public comment for at least 45 days, unless the committee in its discretion decides such an opinion should be issued in final form in less time or with no prior notice. After the public comment period has expired, the committee will decide whether the opinion should be published in its original form, modified, or withdrawn. Eight members must vote affirmatively to modify or withdraw a formal written opinion.
- (3) Informal written opinions and oral advice will be decided by vote of the committee members. The committee will adopt procedures concerning the number of votes required to issue an informal written opinion or oral advice.
- (4) The committee will adopt procedures concerning the handling and determination of requests for opinions or advice.
- (5) The committee will inform the inquiring judicial officer or candidate for judicial office that he or she must disclose all relevant information and that any opinion or advice issued by the committee is based on the premise that the inquiring judicial officer or candidate has disclosed all relevant information.
- (6) The committee will confer in person, in writing, including by electronic mail, by telephone, or by videoconference as often as needed to conduct committee business and resolve pending requests.

(k) Opinion distribution

- (1) The committee will, upon final approval of a formal written opinion, ensure distribution of the opinion, including to the person or entity who requested the opinion, all California judicial officers, and other interested persons.
- (2) The committee's informal written opinions and written confirmation of oral advice will, upon approval by the committee, be provided to the inquiring judicial officer or candidate for judicial office.
- (3) The committee will post all formal written opinions on the committee's Web site. The committee may post summaries of its informal written opinions and of oral advice on the committee's Web site.
- (4) The committee will maintain records of committee determinations and opinions at the committee's office.

(l) Withdrawn, modified, and superseding opinions

The committee may withdraw, modify, or supersede an opinion at any time.

(m) Internal operating rules

The committee will adopt procedures, subject to approval by the Supreme Court, to implement this rule.

(n) Web site, e-mail address, and toll-free telephone number

The committee will maintain a Web site, e-mail address, and toll-free telephone number.

Rule 9.80 amended effective January 1, 2016; adopted effective July 1, 2009.

Division 7. State Bar Trustees

Title 9, Rules on Law Practice, Attorneys, and Judges—Division 7, State bar Trustees adopted effective January 23, 2013.

Rule 9.90. Nominations and appointments of State Bar trustees

Rule 9.90. Nominations and appointments of State Bar trustees

(a) State Bar Trustees Nominating Committee

- (1) The Supreme Court appoints five attorneys to the State Bar Board of Trustees, each for a three-year term. The court may reappoint an attorney for one additional term. The court may also fill any vacancy in the term of, and

make any reappointment of, any appointed attorney member. Each appointee must be an active member of the State Bar and have his or her principal office in California.

- (2) In order to ensure that individuals appointed by the Supreme Court to the State Bar Board of Trustees have been evaluated objectively, the court has established an independent “State Bar Trustees Nominating Committee” to receive applications and screen and evaluate prospective appointees. The role of the committee is to determine whether applicants possess not only the statutorily enumerated qualifications, but also any other qualifications that may be required to carry out the duties of the Board of Trustees.
- (3) The committee serves at the pleasure of the court. The committee will consist of seven members appointed by the court of whom five must be active members of the State Bar in good standing, and two must be active or retired judicial officers. A committee chair and vice-chair are designated by the court. The court will seek to create a broadly representative body to assist it in its considerations.

Except as provided below, all full terms are for three years. Members may not serve more than two consecutive full terms. Members will continue to serve until a successor is appointed. Appointments to fill a vacancy will be for the balance of the term vacated. Members who are appointed to fill a vacancy for the balance of a term are eligible to serve two full terms in addition to the remainder of the term for which they were appointed.

To create staggered terms among the members of the committee, the Supreme Court will appoint initial members of the committee as follows:

- (A) Four members each to serve a term of three years. The court may reappoint these members to one full term.
 - (B) Three members each to serve a term of two years. The court may reappoint these members to one full term.
- (4) The committee must adopt, and implement upon approval by the Supreme Court, procedures for:
 - (A) Receipt of applications and initial screening of applicants for appointments to fill the vacant positions, including adoption of a comprehensive application form;
 - (B) Receipt of evaluations concerning selected applicants;
 - (C) Evaluation and rating of applicants; and

- (D) Transmittal of the materials specified in (b) of this rule to the Supreme Court.

The procedures adopted by the committee must include provisions to ensure the confidentiality of its evaluations.

- (5) In recommending candidates, in order to provide for the appointment of trustees who bring to the board a variety of experiences, the committee should consider:
 - (A) Legal services attorneys, solo practitioners, attorneys with small firms, and attorneys with governmental entities;
 - (B) Historically underrepresented groups, such as those underrepresented because of race, ethnicity, gender, and sexual orientation;
 - (C) Legal academics;
 - (D) Geographic distribution;
 - (E) Years of practice;
 - (F) Attorneys who are in their first five years of practice;
 - (G) Participation in voluntary local or state bar activities;
 - (H) Participation in activities to benefit the public; and
 - (I) Other factors demonstrating a background that will help inform the work of the board.
- (6) The State Bar must provide the support the committee requires to discharge its obligations under this rule.

(b) Evaluations

- (1) The committee must evaluate the qualifications of and rate all applicants and must submit to the court the nominations of at least three qualified candidates for each vacancy. Candidates are to be rated as “not recommended,” “recommended,” and “highly recommended.” A rating of “not recommended” relates only to the position under consideration and does not indicate any lack of ability or expertise of the applicant generally. The committee must report in confidence to the Supreme Court its evaluation, rating, and recommendation for applicants for appointment and the reasons therefore, including a succinct summary of their qualifications, at a time to be designated by the Supreme Court. The report must include written comments

regarding the nominees received by the committee, which must be transmitted to the Supreme Court together with the nominations.

- (2) In determining the qualifications of an applicant for appointment or reappointment the committee should, in addition to the factors cited in subsection (a)(5), consider the following: focus on the public interest, public service, commitment to the administration of justice, objectivity, community respect, integrity, ability to work collaboratively, and balanced temperament.

Rule 9.90 adopted effective January 23, 2013.