



The State Bar of California

OPEN SESSION

AGENDA ITEM

6.1 MAY 2025

BOARD OF TRUSTEES

DATE: May 22, 2025

TO: Members, Board of Trustees Sitting as the Regulation and Discipline Committee

FROM: Melanie J. Lawrence, Program Director, Office of Professional Support & Client Protection

SUBJECT: Proposed Amendments to Rules of Procedure of the State Bar of California, Division 5, Chapters 1 and 2, Modification of Probation Conditions and Probation Revocation Proceedings: Request to Circulate for Public Comment

EXECUTIVE SUMMARY

The Office of Case Management & Supervision (OCMS) is the office that monitors compliance with Court-ordered conditions of supervision. The Rules of Procedure currently contemplate that only OCMS, on behalf of the State Bar, will bring or respond to a motion to terminate probation early or modify conditions of probation. The Rules of Procedure currently also only give OCMS, on behalf of the State Bar, the authority to initiate a probation revocation proceeding when there is evidence of a probation violation. The proposed changes will give authority to the Office of Chief Trial Counsel (OCTC) to initiate probation revocation proceedings, and to respond to or make motions to terminate probation early or to modify conditions of probation. These changes will give discipline system stakeholders more flexibility in determining who will address violations of supervision conditions.

This item requests the Board of Trustee's approval to send the proposed amendments to the existing State Bar Rules of Procedure of the State Bar of California, Division 5, Chapters 1 and 2, Rules 5.300–Rule 5.314, out for a 45-day public comment period.

RECOMMENDED ACTION

Passage of a resolution directing staff to make available for public comment for a period of 45 days, the draft changes to the existing State Bar Rules of Procedure of the State Bar of California, as set forth in Attachments A and B.

DISCUSSION

The OCMS, formerly known as the Office of Probation, is the State Bar office that monitors disciplinary conditions of attorneys on supervision.¹ The office has historically been staffed by a supervising attorney who, among other things, brings and responds to motions to modify disciplinary conditions and brings motions to revoke probation, where appropriate.

The State Bar anticipates staffing changes in 2025 that will necessitate greater flexibility in which State Bar office brings and responds to motions to modify disciplinary conditions and brings motions to revoke probation, where appropriate. While OCMS will continue to monitor the conditions of probation, the proposed changes to the Rules of Procedure of the State Bar will add authority for OCTC to respond to and make motions to modify disciplinary conditions and to bring motions to revoke probation. OCTC supports the proposed changes.

Proposed Amendments to Rule 5.300(A) (Timing of Motion)

The proposed amendments will add authority for OCTC, in addition to OCMS and the respondent attorney, authority to make a motion to terminate probation early, if at least six months has passed since the effective date of probation.

Proposed Amendments to Rule 5.300(G) (Service)

Adds OCTC as a party who must be served with motions for modification or early termination of probation.

Proposed Amendments to Rule 5.310 (Probation Revocation Proceedings)

The proposed amendments will allow OCTC, in addition to OCMS, to charge a probation violation through a probation revocation proceeding. OCTC will retain the sole authority to charge a probation violation through an original discipline proceeding.

Proposed Amendments to Rule 5.314(F)-(H) (Declarations in Support of Motion, Response, No Hearing)

The proposed changes will change the existing language referencing counsel for the “Office of Probation” to counsel for the “State Bar.” The more general language will provide greater flexibility in the event a probation revocation proceeding is initiated by OCTC.

PREVIOUS ACTION

None

¹ The proposed rule changes do not include modifications to the name of the office because the name “Office of Probation” is found throughout the Rules of Procedure and that name is commonly understood to mean the office that monitors disciplinary conditions.

FISCAL/PERSONNEL IMPACT

No fiscal impact. The proposed rule changes will provide more flexibility for managing personnel resources.

AMENDMENTS TO RULES

Rules of Procedure of the State Bar of California, Division 5, Chapters 1 and 2, Rules 5.300–5.314.

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 1. Protect the Public by Strengthening the Attorney Discipline System

RESOLUTIONS

Should the Board of Trustees, sitting as the Regulation and Discipline Committee, concur it is:

RESOLVED, that the Board of Trustees, sitting as the Regulation and Discipline Committee, authorizes staff to make available for public comment, for a period of 45 days, the proposed amendments to the Rules of Procedure of the State Bar of California, Division 5, Chapters 1 and 2, Rules 5.300–5.314.

ATTACHMENTS LIST

- A.** Proposed Amendments to Rules of Procedure of the State Bar of California, Division 5, Chapters 1 and 2, Rules 5.300–5.314 (redline version)
- B.** Proposed Amendments to Rules of Procedure of the State Bar of California, Division 5, Chapters 1 and 2, Rules 5.300–5.314 (clean version)