

6.4 Proposed New Rule 5.32 and Amendments to Rules 5.15, 5.151, 5.391, 5.441, 5.461, 3.125, and 4.47 of the Rules of the State Bar Regarding Waivers of State Bar Court Filing Fees and Transcript Costs: Request to Circulate for Public Comment



The State Bar of California

OPEN SESSION AGENDA ITEM 6.4 MAY 2025 BOARD OF TRUSTEES

DATE: May 22, 2025

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

FROM: Kathy Sher, Clerk of the State Bar Court

SUBJECT: Proposed New Rule 5.32 and Amendments to Rules 5.15, 5.151, 5.391, 5.441, 5.461, 3.125, and 4.47 of the Rules of the State Bar Regarding Waivers of State Bar Court Filing Fees and Transcript Costs: Request to Circulate for Public Comment

EXECUTIVE SUMMARY

This staff report seeks authorization to circulate for public comment proposed amendments to the State Bar Rules to allow the waiver of filings fees and transcript preparation costs for low-income litigants in State Bar Court proceedings. Currently, the State Bar Court charges filing fees to litigants initiating certain types of cases, including reinstatement cases and moral character proceedings. In addition, litigants who seek review of a Hearing Department decision are required to pay the cost of having a trial transcript prepared. Filing fees and transcript costs can in some cases make it impossible for a litigant to pursue their case due to a lack of means to pay these fees and costs. The proposed changes to the rules will create a procedure allowing waiver of filing fees for low-income litigants. The proposal also includes changes to the rules to allow for a waiver of payment of transcript costs; corresponding changes to create procedures for transcript cost waivers will be made in the State Bar Court's Rules of Practice.

RECOMMENDED ACTION

The Board is asked to authorize the release for public comment for a period of 45 days of proposed new State Bar Rule 5.32¹, proposed changes to rules 5.15, 5.151, 5.391, 5.441, and

¹ The Rules of Procedure that govern State Bar Court proceedings are set forth within Title 5 of the Rules of the State Bar. All further references to the Rules of Procedure are to Title 5 of the Rules of the State Bar. All further references to the Rules are to the State Bar Rules, including those rules within the Rules of Procedure, unless otherwise stated.

5.461, and proposed new footnotes to rules 3.125 and 4.47 to allow the waiver of filing fees and transcript preparation costs for low-income litigants in State Bar Court proceedings.

DISCUSSION

Although there are no filing fees in most types of proceedings in the State Bar Court (SBC), litigants who seek to file a petition for reinstatement, an appeal of an adverse determination of moral character, or an appeal of a denial, suspension, or revocation of a legal specialization certification must pay the applicable filing fee.² In addition, a litigant who seeks review of a Hearing Department decision must order a trial transcript and pay the transcript preparation cost. For low-income litigants, the filing fees and transcript costs may pose an insurmountable barrier to their ability to pursue their cases. This creates an unfair system where a higher-income person can petition for reinstatement, seek SBC review of an adverse moral character determination, or challenge an SBC Hearing Department decision, but a lower-income person may not be able to, regardless of the merits of that person's case. The Supreme Court of California, recognizing this unfairness, has expressed an interest in creation of procedures in State Bar Court to ensure that a lack of means to pay for a transcript does not prevent a litigant from seeking review of their case.

To address this inequity, proposed new rule 5.32 would create a procedure for low-income litigants to apply for a waiver of any applicable filing fee, with corresponding changes made in other provisions that refer to the required filing fees. Further changes in the Rules of Procedure are proposed to allow for a waiver of the transcript preparation costs when a request for review is filed. If the changes in the Rules of Procedure regarding transcript cost waivers are adopted, the SBC's Executive Committee will need to revise the Rules of Practice of the State Bar Court to create a procedure for litigants to apply for a waiver of the transcript costs.³

Filing Fee Waivers: Under proposed new rule 5.32, an applicant who is found to meet the eligibility criteria for fee scaling under rule 2.15 (currently, having a gross annual individual income below \$60,478.35) will be eligible for a filing fee waiver. The procedure is based on the fee waiver application procedure for litigants in Superior Courts, and simply requires submission of an application on a court-approved form. The details of the procedures for making the eligibility determination will be set out in SBC guidelines and procedures. In most cases it is expected that the determination will be made on the basis of the application alone without need for any further submission of evidence or for a hearing.

Additional changes are proposed in the Rules of Procedure to existing rules that refer to filing fee requirements to add language recognizing the availability of fee waivers. Footnotes are proposed to be added to those rules in other Titles of the State Bar Rules that refer to filing fee requirements to make clear that an applicant can apply for a waiver of the fee.

² Petitions for reinstatement and appeals of moral character determinations are common case types in the SBC, with six moral character cases and nine petitions for reinstatement having been filed in 2024. By contrast, there has not been a single case filed regarding legal specialization certification in at least six years.

³ Pursuant to Business and Professions Code sections 6086.5, subdivision (d)(2), the Executive Committee of the State Bar Court may adopt rules of practice for the State Bar Court, so long as those rules do not conflict with the rules of procedure adopted by the Board.

Transcript Cost Waivers: Rule 5.151 sets out the requirements for filing a request for review of an SBC Hearing Department decision, including that the party seeking review must submit an order for a trial transcript and payment for the transcript. Proposed amendments to rule 5.151 would allow a party to file a request for review without paying for the transcript, by instead filing an application to have those costs waived. Additional changes are proposed in the Rules of Procedure to recognize that transcript preparation costs may be waived in some cases.

The existing procedural requirements regarding payment of transcript preparation costs are set out in the Rules of Practice of the State Bar Court. If the proposed amendments to rule 5.151 are adopted, the SBC's Executive Committee will need to adopt changes to the Rules of Practice to create procedures and eligibility criteria for the transcript cost waiver program. The eligibility criteria and application procedures for waivers of transcript preparation costs will generally be the same as the criteria and procedures for filing fee waivers: an applicant who meets the eligibility criteria for fee scaling under rule 2.15 (having a gross annual individual income below \$60,478.35) will be able to apply for a waiver of transcript preparation costs by submitting an application on a court-approved form. The decision on an application for a waiver of transcript costs will be made by the Presiding Judge of the SBC.

Specific Proposed Changes to the State Bar Rules:

The proposed rule amendments and proposed new footnotes are attached in clean text (Attachment A) and as a redline showing changes from the current rules (Attachment B). The proposed changes are as follows:

- Rule 5.15 is amended to add language stating that payment of transcript costs may be waived pursuant to the provisions of the Rules of Practice governing such waivers.
- Rule 5.32 is added to set out procedures for applications for waivers of filing fees.
 - Rule 5.32(A) states that a party who meets the criteria for a reduction of license fees under rule 2.15 may request a waiver of any SBC filing fee by submitting an application on the court-approved form.
 - Rule 5.32(B) sets out protections for the confidentiality of information submitted in an application for a fee waiver. This provision is based on rule 3.54 of the California Rules of Court, which governs the confidentiality regarding fee waiver applications in the Superior Courts.
 - Rule 5.32(C) provides that if the court finds that the applicant meets the eligibility criteria, it will grant the application for waiver and makes this decision non-reviewable in the SBC.
 - Rule 5.32(D) sets out the procedures that apply if an application for a fee waiver is denied.
- Rule 5.151 is amended to add language allowing a litigant filing a request for review to submit an application for waiver for transcript costs, pursuant to the procedures set forth in the Rules of Practice, in lieu of submitting payment.

- Rule 5.391, regarding legal specialization proceedings, is amended to add a sentence stating that the attorney may apply for a waiver of the filing fee.
- Rule 5.441, regarding petitions for reinstatement, is amended to add language stating that the attorney may apply for a waiver of the filing fee and noting that the petition will be rejected if neither the filing fee nor an application for a fee waiver is submitted. In addition, the title of subsection 5.441(B)(2) is revised to reflect recent changes to that subsection to remove proof of payment of monetary sanctions as a pre-filing requirement.
- Rule 5.461, regarding moral character proceedings, is amended to add a sentence stating that the attorney may apply for a waiver of the filing fee.

Footnotes are proposed to be added to the State Bar Rules in two places to clarify that filing fee waivers are available. The proposed added footnotes are included in the draft proposed rules amendments, in clean text (Attachment A) and as a redline showing the addition of the footnotes (Attachment B). The changes are as follows:

- A footnote is proposed to be added to rule 3.125, regarding legal specialization proceedings, to state that an applicant may apply for a waiver of the filing fee charged for filing a petition under that rule.
- A footnote is proposed to be added to rule 4.47, regarding moral character proceedings, to state that an applicant may apply for a waiver of the filing fee charged for filing a request for hearing under that rule.

PREVIOUS ACTION

None

FISCAL/PERSONNEL IMPACT

The SBC estimates that the loss of revenue from the waiver of filing fees in eligible reinstatement cases and moral character proceedings will be less than \$10,000 each year.

The cost of allowing waivers of transcript preparation costs is more difficult to estimate, as the cost for a transcript varies greatly depending on how long the trial was. Based on data regarding the number of respondents in discipline cases who were eligible for fee scaling and the average length of trials, the SBC estimates that the cost to pay for trial transcript preparation in those cases where the litigant is granted a waiver will generally be between \$20,000 and \$50,000 each year, based on current rates charged by the service that prepares the transcripts.

AMENDMENTS TO RULES

Title 5, Division 1, Rule 5.15

Title 5, Division 2, Chapter 1, Rule 5.32

Title 5, Division 3, Rule 5.151
Title 5, Division 6, Chapter 6, Rule 5.391
Title 5, Division 7, Chapter 3, Rule 5.441
Title 5, Division 7, Chapter 4, Rule 5.461

Footnotes are proposed to be added to the following rules:

Title 3, Division 2, Chapter 2, Rule 3.125
Title 4, Division 1, Chapter 4, Rule 4.47

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

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

- c. 3. Identify and implement strategies to address other disparities in discipline rates and outcomes, including those related to solo and small firm practitioners.

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 proposed new rule 5.32, proposed amendments to rules 5.15, 5.151, 5.391, 5.441, and 5.461, and proposed footnotes to rules 3.125 and 4.47 of the Rules of the State Bar of California, as set forth in Attachments A and B; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed amendments to the Rules of the State Bar of California.

ATTACHMENTS LIST

- A.** Proposed new rule 5.32, proposed amendments to 5.15, 5.151, 5.391, 5.441, and 5.461, and proposed footnotes to rules 3.125 and 4.47 of the Rules of the State Bar of California – Clean Version
- B.** Proposed new rule 5.32, proposed amendments to 5.15, 5.151, 5.391, 5.441, and 5.461, and proposed footnotes to rules 3.125 and 4.47 of the Rules of the State Bar of California – Redline to Current Rules

Rules of Procedure

Rule 5.15 Preparation of Transcripts

The official transcript is prepared under the direction of the State Bar Court. Upon request and advance payment of the cost, the Clerk will cause to be prepared an original and one copy of an official transcript. A party ordering an official transcript of a pending proceeding must serve a copy of the transcript order on all opposing parties. The original transcript will be filed with the Clerk and the copy will be furnished to the requesting party. Additional copies may be obtained from the Clerk upon payment of the cost. Payment may be waived under rule 5.192(B), or pursuant to the procedures for waiver of transcript costs in the Rules of Practice of the State Bar Court.

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Rule 5.32 Waiver of Filing Fees

(A) A party who would meet the criteria for a reduction of license fees pursuant to State Bar Rules, Title 2, Division 2, rule 2.15 may request a waiver of any State Bar Court filing fee by submitting an application for waiver on the court-approved form. The application must be submitted at the same time as the underlying pleading, as a separate submission.

(B) Except as otherwise required by law, no person may have access to an application for fee waiver except the court and authorized court personnel, any persons authorized by the applicant, and any persons authorized by order of the court. No person may reveal any information contained in the application except as authorized by law or order of the court. However, the fact that an application for waiver of fees has been submitted and the determination to grant or deny the application will not be confidential.

(C) If the court finds that the applicant meets the eligibility criteria for a reduction of license fees under the State Bar Rules, Title 2, Division 2, rule 2.15, the court will grant the application for waiver. The court's determination regarding eligibility is the final ruling in the State Bar Court.

(D) If the court denies the application for a waiver of the filing fee, payment is due within ten days of service of the court's order denying the application. If payment is not received within the ten days, the filing for which the fee is due will be stricken and the case dismissed without prejudice.

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Rule 5.151 Requests for Review

(A) What May Be Reviewed. Unless expressly provided otherwise in the rules governing a particular type of proceeding, all decisions and orders by hearing judges that fully dispose of an entire proceeding are reviewable by the Review Department at the request of any party under this rule.

(B) Timing. Any party may file and serve a request for review within 30 days after the hearing judge's decision or order is served. If a post-trial motion is filed in the Hearing

Department, a party seeking review must file and serve the request within 30 days after the hearing judge's ruling on the post-trial motion is served.

- (C) **Post-Trial Motion After Request Filed.** If a post-trial motion about a decision is filed in the Hearing Department after a request for review is filed, any request for review of that decision will be vacated and the requesting party must file another request for review after the hearing judge's ruling on the post-trial motion is served.
- (D) **Certification and Transcript.** Unless otherwise ordered by the Presiding Judge, the request for review must certify that a trial transcript has been ordered and payment has been made or an application for waiver of transcript costs has been submitted as required under the Rules of Practice of the State Bar Court. Unless otherwise ordered by the Presiding Judge, if the party requesting review fails to timely order a transcript, timely pay the required transcript cost, or timely apply for waiver of the cost, the Clerk will notify the party that the request will be dismissed unless, within five days after the Clerk's notice is served, the party: (1) tenders the required cost, (2) upon a motion and showing of good cause, obtains an order from the Court granting an extension of time or permitting other arrangements satisfactory to the Court, or (3) upon application, is granted a waiver of the cost.
- (E) **Additional Parties' Requests for Review.** If any party files a request for review under rule 5.151, any opposing party may file a request for review within 10 days after the first party's request for review is served.
- (F) **Multiple Requests for Review.** If more than one party requests review, the requesting parties will equally divide the cost of the transcript. Each will file an appellant's brief under rule 5.152 and a responsive brief under rule 5.153(A). Each may file a rebuttal brief under rule 5.153(B).
- (G) **When Review Is Permitted.** Except as expressly permitted by these rules, no action of a hearing judge is reviewable by the Review Department until after the hearing judge enters a decision or order fully disposing of the entire proceeding.
- (H) **Withdrawal of Request for Review.**
 - (1) At any time before service of notice of the time and place of oral argument, a party who requested review may withdraw the request for review.
 - (2) After the Clerk has served notice of the time and place of oral argument, a request for review may be withdrawn only by order of the Presiding Judge upon written motion by the party who sought review.
 - (3) Unless otherwise ordered by the court, a withdrawal of request for review in its entirety shall leave standing the decision of the Hearing Department as the final decision of the court.

Rule 5.391 Beginning Proceeding; Time for Filing

If the Board of Legal Specialization denies, suspends, or revokes an attorney's legal specialization certification, the attorney may file an application for a legal specialization certification proceeding and hearing. Within 30 days after notice of such denial, suspension or revocation is served, an application must be served under rule 5.25 and filed, accompanied by supporting documents, including a copy of the notice of denial, suspension or revocation, the applicable filing fee, and proof of service upon the Board of Legal Specialization and the Office of Chief Trial Counsel. The attorney may apply for waiver of the filing fee pursuant to rule 5.32.

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Rule 5.441 Filing Requirements

- (A) Filing Petition, Disclosure Statement, and Authorization and Release.** A petitioner must complete and verify a petition and disclosure statement on the forms approved by the court and in compliance with the instructions therein. The original and three copies of the petition must be filed with the Clerk of the State Bar Court. The disclosure statement is not filed with the court but must be served on the Office of Chief Trial Counsel. In addition, a petitioner must complete an authorization and release approved by the State Bar. The authorization and release is not filed with the court but must be served on the Office of Chief Trial Counsel.
- (B) Pre-Filing Requirements and Proof.** Prior to filing the petition, the petitioner must satisfy the following requirements and must attach proof of compliance to the petition:
- (1) **Fingerprints Submitted.** Under Business and Professions Code section 6054, the petitioner must have submitted fingerprints to the California Department of Justice via Live Scan technology, or if the petitioner resides outside the state, two sets of original fingerprints on record cards furnished by the State Bar must have been submitted to the Office of Chief Trial Counsel;
 - (2) **Discipline Costs Paid.** Unless the petitioner has been granted an extension of time for payment under these rules which has not expired at the time of the filing of the petition, petitioner must have paid all discipline costs imposed under Business and Professions Code section 6086.10, subdivision (a). Proof of payment of costs or a copy of the court order extending the time to pay costs must be attached to the petition.
 - (3) **Client Security Fund Payments Reimbursed.** Petitioner must have reimbursed all payments made by the Client Security Fund as a result of the petitioner's conduct, plus applicable interest and costs, under Business and Professions Code section 6140.5, subdivision (c).
 - (4) **Passage of the Attorneys' Examination.**

- (a) Resigned with Charges Pending or Disbarred. Petitioners who resigned with charges pending or who were disbarred must establish that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the petition for reinstatement.
- (b) Resigned without Charges Pending. Petitioners who resigned without charges pending more than five years before filing the petition for reinstatement must establish 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.
- (C) **Filing Fee.** The petition must include the filing fee specified in the Schedule of Charges and Deadlines, Appendix A to the Rules of the State Bar, which will be given to the Office of Chief Trial Counsel to defray incurred costs. Petitioner may apply for waiver of the filing fee pursuant to rule 5.32. The Clerk will reject the petition for filing if the fee is not included and no application for waiver of the fee has been submitted.
- (D) **Service.** The petition and disclosure statement must be served on the Office of Chief Trial Counsel under rule 5.25.
- (E) **Dismissal.** Failure to comply with any of the requirements of this rule will be grounds to dismiss the petition. If the filing fee was paid or the petitioner was granted a fee waiver and the petitioner submits a new petition within 30 days of a dismissal under this rule, the petitioner will not have to pay the filing fee or apply for a waiver again. The new petition must otherwise meet all of the requirements of this rule.

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Rule 5.461 Beginning Proceeding; Time for Filing

If the Committee of Bar Examiners makes an adverse moral character determination, the applicant may file an application for a moral character proceeding and hearing. Within 60 days after the notice of adverse moral character determination is served, the application and supporting documents must be served under rule 5.25 and filed, accompanied by a copy of the notice of adverse moral character determination, the applicable filing fee, and proof of service upon the Committee of Bar Examiners and the Office of Chief Trial Counsel. The applicant may apply for waiver of the filing fee pursuant to rule 5.32. As an alternative to service via certified mail as otherwise required by rule 5.25(E), the application and supporting documents may be electronically served upon the Committee of Bar Examiners and the Office of Chief Trial Counsel to the email addresses specified for service on these entities on the State Bar's website.

Rules of the State Bar, Title 3

Rule 3.125 Appeal of certification denial, suspension, or revocation

An applicant who is denied certification or recertification pursuant to Rule 3.120 (C)-(G) or a certified specialist whose certification is suspended or revoked pursuant to Rule 3.124(B) or (C) may file a petition for hearing in the State Bar Court in accordance with the rules of that court with the fee¹ set forth in the Schedule of Charges and Deadlines no later than thirty days after the notice of denial, suspension or revocation is served on the applicant or certified specialist. A copy of the petition must be served on the board and the Office of Chief Trial Counsel at the San Francisco office of the State Bar.

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Rules of the State Bar, Title 4

Rule 4.47 Appeal of adverse determination of moral character issued by Committee

- (A) If the Committee issues an adverse determination of moral character, an applicant may file a request for hearing on the determination with the State Bar Court in accordance with the Rules of Procedure of the State Bar on Moral Character Proceedings. The request must be filed with the fee² set forth in the Schedule of Charges and Deadlines within sixty days of the date of service of the notice of adverse determination.
- (B) A copy of the request for hearing must be served on the Office of Admissions and the Office of Chief Trial Counsel. Upon receipt of service, the Committee must promptly transmit all files related to the application to the Office of Chief Trial Counsel.

¹ An applicant may apply for waiver of the filing fee pursuant to the Rules of Procedure of the State Bar.

² An applicant may apply for waiver of the filing fee pursuant to the Rules of Procedure of the State Bar.

Rules of Procedure

Rule 5.15 Preparation of Transcripts

The official transcript is prepared under the direction of the State Bar Court. Upon request and advance payment of the cost, the Clerk will cause to be prepared an original and one copy of an official transcript. A party ordering an official transcript of a pending proceeding must serve a copy of the transcript order on all opposing parties. The original transcript will be filed with the Clerk and the copy will be furnished to the requesting party. Additional copies may be obtained from the Clerk upon payment of the cost. Payment may be waived under rule 5.192(B), or pursuant to the procedures for waiver of transcript costs in the Rules of Practice of the State Bar Court.

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Rule 5.32 Waiver of Filing Fees

(A) A party who would meet the criteria for a reduction of license fees pursuant to State Bar Rules, Title 2, Division 2, rule 2.15 may request a waiver of any State Bar Court filing fee by submitting an application for waiver on the court-approved form. The application must be submitted at the same time as the underlying pleading, as a separate submission.

(B) Except as otherwise required by law, no person may have access to an application for fee waiver except the court and authorized court personnel, any persons authorized by the applicant, and any persons authorized by order of the court. No person may reveal any information contained in the application except as authorized by law or order of the court. However, the fact that an application for waiver of fees has been submitted and the determination to grant or deny the application will not be confidential.

(C) If the court finds that the applicant meets the eligibility criteria for a reduction of license fees under the State Bar Rules, Title 2, Division 2, rule 2.15, the court will grant the application for waiver. The court's determination regarding eligibility is the final ruling in the State Bar Court.

(D) If the court denies the application for a waiver of the filing fee, payment is due within ten days of service of the court's order denying the application. If payment is not received within the ten days, the filing for which the fee is due will be stricken and the case dismissed without prejudice.

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Rule 5.151 Requests for Review

- (A) What May Be Reviewed.** Unless expressly provided otherwise in the rules governing a particular type of proceeding, all decisions and orders by hearing judges that fully dispose of an entire proceeding are reviewable by the Review Department at the request of any party under this rule.
- (B) Timing.** Any party may file and serve a request for review within 30 days after the hearing judge's decision or order is served. If a post-trial motion is filed in the Hearing

Department, a party seeking review must file and serve the request within 30 days after the hearing judge's ruling on the post-trial motion is served.

- (C) **Post-Trial Motion After Request Filed.** If a post-trial motion about a decision is filed in the Hearing Department after a request for review is filed, any request for review of that decision will be vacated and the requesting party must file another request for review after the hearing judge's ruling on the post-trial motion is served.
- (D) **Certification and Transcript.** Unless otherwise ordered by the Presiding Judge, the request for review must certify that a trial transcript has been ordered and payment has been made or an application for waiver of transcript costs has been submitted as required under the Rules of Practice of the State Bar Court. Unless otherwise ordered by the Presiding Judge, if the party requesting review fails to timely order a transcript ~~or to~~, timely pay the required transcript cost, or timely apply for waiver of the cost, the Clerk will notify the party that the request will be dismissed unless, within five days after the Clerk's notice is served, the party: (1) tenders the required cost, ~~or~~ (2) upon a motion and showing of good cause, obtains an order from the Court granting an extension of time or permitting other arrangements satisfactory to the Court, or (3) upon application, is granted a waiver of the cost.
- (E) **Additional Parties' Requests for Review.** If any party files a request for review under rule 5.151, any opposing party may file a request for review within 10 days after the first party's request for review is served.
- (F) **Multiple Requests for Review.** If more than one party requests review, the requesting parties will equally divide the cost of the transcript. Each will file an appellant's brief under rule 5.152 and a responsive brief under rule 5.153(A). Each may file a rebuttal brief under rule 5.153(B).
- (G) **When Review Is Permitted.** Except as expressly permitted by these rules, no action of a hearing judge is reviewable by the Review Department until after the hearing judge enters a decision or order fully disposing of the entire proceeding.
- (H) **Withdrawal of Request for Review.**
 - (1) At any time before service of notice of the time and place of oral argument, a party who requested review may withdraw the request for review.
 - (2) After the Clerk has served notice of the time and place of oral argument, a request for review may be withdrawn only by order of the Presiding Judge upon written motion by the party who sought review.
 - (3) Unless otherwise ordered by the court, a withdrawal of request for review in its entirety shall leave standing the decision of the Hearing Department as the final decision of the court.

Rule 5.391 Beginning Proceeding; Time for Filing

If the Board of Legal Specialization denies, suspends, or revokes an attorney's legal specialization certification, the attorney may file an application for a legal specialization certification proceeding and hearing. Within 30 days after notice of such denial, suspension or revocation is served, an application must be served under rule 5.25 and filed, accompanied by supporting documents, including a copy of the notice of denial, suspension or revocation, the applicable filing fee, and proof of service upon the Board of Legal Specialization and the Office of Chief Trial Counsel. The attorney may apply for waiver of the filing fee pursuant to rule 5.32.

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Rule 5.441 Filing Requirements

- (A) Filing Petition, Disclosure Statement, and Authorization and Release.** A petitioner must complete and verify a petition and disclosure statement on the forms approved by the court and in compliance with the instructions therein. The original and three copies of the petition must be filed with the Clerk of the State Bar Court. The disclosure statement is not filed with the court but must be served on the Office of Chief Trial Counsel. In addition, a petitioner must complete an authorization and release approved by the State Bar. The authorization and release is not filed with the court but must be served on the Office of Chief Trial Counsel.
- (B) Pre-Filing Requirements and Proof.** Prior to filing the petition, the petitioner must satisfy the following requirements and must attach proof of compliance to the petition:
- (1) **Fingerprints Submitted.** Under Business and Professions Code section 6054, the petitioner must have submitted fingerprints to the California Department of Justice via Live Scan technology, or if the petitioner resides outside the state, two sets of original fingerprints on record cards furnished by the State Bar must have been submitted to the Office of Chief Trial Counsel;
 - (2) **Discipline Costs Paid ~~and Monetary Sanctions Paid~~.** Unless the petitioner has been granted an extension of time for payment under these rules which has not expired at the time of the filing of the petition, petitioner must have paid all discipline costs imposed under Business and Professions Code section 6086.10, subdivision (a). Proof of payment of costs or a copy of the court order extending the time to pay costs must be attached to the petition.
 - (3) **Client Security Fund Payments Reimbursed.** Petitioner must have reimbursed all payments made by the Client Security Fund as a result of the petitioner's conduct, plus applicable interest and costs, under Business and Professions Code section 6140.5, subdivision (c).
 - (4) **Passage of the Attorneys' Examination.**

- (a) Resigned with Charges Pending or Disbarred. Petitioners who resigned with charges pending or who were disbarred must establish that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the petition for reinstatement.
- (b) Resigned without Charges Pending. Petitioners who resigned without charges pending more than five years before filing the petition for reinstatement must establish 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.
- (C) **Filing Fee.** The petition must include a filing fee of \$1,600, the filing fee specified in the Schedule of Charges and Deadlines, Appendix A to the Rules of the State Bar, which will be given to the Office of Chief Trial Counsel to defray incurred costs. Petitioner may apply for waiver of the filing fee pursuant to rule 5.32. The Clerk will reject the petition for filing if the fee is not included and no application for waiver of the fee has been submitted.
- (D) **Service.** The petition and disclosure statement must be served on the Office of Chief Trial Counsel under rule 5.25.
- (E) **Dismissal.** Failure to comply with any of the requirements of this rule will be grounds to dismiss the petition. If the filing fee was paid or the petitioner was granted a fee waiver and the a petitioner submits a new petition within 30 days of a dismissal under this rule, the petitioner will not have to pay the filing fee or apply for a waiver again. The new petition must otherwise meet all of the requirements of this rule.

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Rule 5.461 Beginning Proceeding; Time for Filing

If the Committee of Bar Examiners makes an adverse moral character determination, the applicant may file an application for a moral character proceeding and hearing. Within 60 days after the notice of adverse moral character determination is served, the application and supporting documents must be served under rule 5.25 and filed, accompanied by a copy of the notice of adverse moral character determination, the applicable filing fee, and proof of service upon the Committee of Bar Examiners and the Office of Chief Trial Counsel. The applicant may apply for waiver of the filing fee pursuant to rule 5.32. As an alternative to service via certified mail as otherwise required by rule 5.25(E), the application and supporting documents may be electronically served upon the Committee of Bar Examiners and the Office of Chief Trial Counsel to the email addresses specified for service on these entities on the State Bar's website.

Rules of the State Bar, Title 3

Rule 3.125 Appeal of certification denial, suspension, or revocation

An applicant who is denied certification or recertification pursuant to Rule 3.120 (C)-(G) or a certified specialist whose certification is suspended or revoked pursuant to Rule 3.124(B) or (C) may file a petition for hearing in the State Bar Court in accordance with the rules of that court with the fee¹ set forth in the Schedule of Charges and Deadlines no later than thirty days after the notice of denial, suspension or revocation is served on the applicant or certified specialist. A copy of the petition must be served on the board and the Office of Chief Trial Counsel at the San Francisco office of the State Bar.

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Rules of the State Bar, Title 4

Rule 4.47 Appeal of adverse determination of moral character issued by Committee

- (A) If the Committee issues an adverse determination of moral character, an applicant may file a request for hearing on the determination with the State Bar Court in accordance with the Rules of Procedure of the State Bar on Moral Character Proceedings. The request must be filed with the fee² set forth in the Schedule of Charges and Deadlines within sixty days of the date of service of the notice of adverse determination.
- (B) A copy of the request for hearing must be served on the Office of Admissions and the Office of Chief Trial Counsel. Upon receipt of service, the Committee must promptly transmit all files related to the application to the Office of Chief Trial Counsel.

¹ An applicant may apply for waiver of the filing fee pursuant to the Rules of Procedure of the State Bar.

² An applicant may apply for waiver of the filing fee pursuant to the Rules of Procedure of the State Bar.



The State Bar Court *of California*

Proposed Rule Changes to Allow Waivers of Filing Fees and Transcript Costs in the State Bar Court

Kathy Sher, Clerk of the State Bar Court

Board of Trustees Meeting, May 22–23, 2025

Filing Fees and Transcript Costs: A Barrier to Access

The problem: Filing fees and transcript preparation costs can make it impossible for some low-income litigants in the State Bar Court (SBC) to pursue their cases, regardless of the merits.

- Filing fees are required in reinstatement cases (\$1643), moral character appeals (\$514), and appeals of the denial, suspension, or revocation of a legal specialization certification (\$514). There is no provision in the rules allowing for a waiver or reduction of these fees.
- When a litigant seeks review of a Hearing Department decision or order, that litigant must submit a transcript order form and pay the transcript deposit requested by the SBC. Depending on the length of the trial, transcript preparation costs can be thousands of dollars. If the litigant cannot pay, they cannot file a request for review.



Proposed Eligibility Criteria and Application Procedure

Fee Waivers:

- Eligibility: Income below \$60,478, based on the fee scaling criteria in rule 2.15.
- Application: Applicant will submit a simple court-approved application form. In most cases, the determination will be made on the basis of the application, without a hearing or further evidence.
- Confidentiality: The information in the application will be kept confidential.

Transcript Cost Waivers:

- Eligibility criteria and application procedure will be similar to those for fee waivers, including confidentiality protections.
- If the changes to the Rules of Procedure for transcript cost waivers are approved, the Rules of Practice will need to be revised to specify the application procedures.



Questions?

