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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 4. Attorneys [6000 - 6243] (*Chapter 4 added by Stats. 1939, Ch. 34.)*

ARTICLE 5. Disciplinary Authority of the Board of Governors [6075 - 6088] (*Article 5 added by Stats. 1939, Ch. 34.)*

6075. In their relation to the provisions of Article 6, concerning the disciplinary authority of the courts, the provisions of this article provide a complete alternative and cumulative method of hearing and determining accusations against licensees of the State Bar.
(*Amended by Stats. 2018, Ch. 659, Sec. 54. (AB 3249) Effective January 1, 2019.*)

6076. With the approval of the Supreme Court, the Board of Trustees may formulate and enforce rules of professional conduct for all licensees of the State Bar.
(*Amended by Stats. 2018, Ch. 659, Sec. 55. (AB 3249) Effective January 1, 2019.*)

6077. The rules of professional conduct adopted by the board, when approved by the Supreme Court, are binding upon all licensees of the State Bar.

For a willful breach of any of these rules, the State Bar Court has power to discipline attorneys by reproof, public or private, or to recommend to the Supreme Court the suspension from practice for a period not exceeding three years of licensees of the State Bar.
(*Amended by Stats. 2019, Ch. 698, Sec. 9. (SB 176) Effective January 1, 2020.*)

6077.5. An attorney and his or her employees who are employed primarily to assist in the collection of a consumer debt owed to another, as defined by Section 1788.2 of the Civil Code, shall comply with all of the following:

(a) The obligations imposed on debt collectors pursuant to Article 2 (commencing with Section 1788.10) of Title 1.6C of Part 4 of Division 3 of the Civil Code.

(b) Any employee of an attorney who is not a licensee of the State Bar of California, when communicating with a consumer debtor or with any person other than the debtor concerning a consumer debt, shall identify himself or herself, by whom he or she is employed, and his or her title or job capacity.

(c) Without the prior consent of the debtor given directly to the attorney or his or her employee or the express permission of a court of competent jurisdiction, an attorney or his or her employee shall not communicate with a debtor in connection with the collection of any debt at any unusual time or place, or time or place known, or which should be known, to be inconvenient to the debtor. In the absence of knowledge of circumstances to the contrary, an attorney or his or her employee shall assume that the convenient time for communicating with the debtor is after 8 a.m. and before 9 p.m., local time at the consumer's location.

(d) If a debtor notifies an attorney or his or her employee in writing that the debtor refuses to pay a debt or that the debtor wishes the attorney or his or her employee to cease further communications with the debtor, the attorney or his or her employee shall not communicate further with the debtor with respect to such debt, except as follows:

(1) To advise the debtor that the attorney or his or her employee's further efforts are being terminated.

(2) To notify the debtor that the attorney or his or her employee or creditor may invoke specific remedies which are ordinarily invoked by such attorney or creditor.

(3) Where applicable, to notify the debtor that the attorney or creditor intends to invoke his or her specific remedy.

(4) Where a suit has been filed or is about to be filed and the debtor is not represented by counsel or has appeared in the action on the debt in propria persona.

For the purpose of this section, "debtor" includes the debtor's spouse, parent, or guardian, if the debtor is a minor, executor, or administrator.

(e) An attorney or his or her employee shall not take or threaten to take any nonjudicial action to effect disposition or disablement of property if (1) there is no present right to possession of the property claimed as collateral through an enforceable security interest; (2) there is no present intention to take possession of the property; or (3) the property is exempt by law from that disposition or disablement.

(f) An attorney or his or her employee shall not cause charges to be made to any person for communications, by concealment of the true purposes of the communication. The charges include, but are not limited to, collect telephone calls and telegram fees.

(g) Within five days after the initial communication with a debtor in connection with the collection of any unsecured debt, an attorney or his or her employee shall, unless the following information is contained in the initial communication or the debtor has paid the debt, send the debtor a written notice containing the following:

(1) The amount of the debt.

(2) The name of the creditor to whom the debt is owed.

(3) A statement that unless the debtor, within 30 days receipt of the notice, disputes the validity of the debt or any portion thereof, the debt will be assumed to be valid by the attorney or his or her employee.

(4) A statement that if the debtor notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the attorney or his or her employee will obtain a writing, if any exists, evidencing the debt or a copy of the judgment against the debtor and a copy of such writing or judgment will be mailed to the debtor by the attorney or his or her employee.

(5) A statement that, upon the debtor's written request within the 30-day period, the attorney or his or her employee will provide the debtor the name and address of the original creditor, if different from the current creditor.

If the debtor notifies the attorney or his or her employee in writing within the 30-day period described in this section that the debt or any portion thereof is disputed, or that the debtor requests the name and address of the original creditor, the attorney and his or her employee shall cease collection of the debt or any disputed portion thereof, except for filing suit thereon, until the attorney obtains a writing, if any exists, evidencing the debt or a copy of a judgment or the name and address of the original creditor, and a copy of such writing or judgment or the name and address of the original creditor is mailed to the debtor by the attorney or his or her employee.

(h) If any debtor owes multiple debts and makes any single payment to any attorney or his or her employee with respect to the debts, the attorney may not apply such payment to any debt which is disputed by the debtor and, where applicable, shall apply such payment in accordance with the debtor's directions.

(i) A willful breach of this section constitutes cause for the imposition of discipline of the attorney in accordance with Section 6077.

(Amended by Stats. 2018, Ch. 659, Sec. 58. (AB 3249) Effective January 1, 2019.)

6078. After a hearing for any of the causes set forth in the laws of the State of California warranting disbarment, suspension, or other discipline, the State Bar Court has the power to recommend to the Supreme Court the disbarment or suspension from practice of licensees or to discipline them by reproof, public or private, without such recommendation.

The State Bar Court may pass upon all petitions for reinstatement.

(Amended by Stats. 2018, Ch. 659, Sec. 59. (AB 3249) Effective January 1, 2019.)

6079.1. (a) The Supreme Court shall appoint a presiding judge of the State Bar Court. In addition, five hearing judges shall be appointed, two by the Supreme Court, one by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly, to efficiently decide any and all regulatory matters pending before the Hearing Department of the State Bar Court. The presiding judge and all other judges of that department shall be appointed for a term of six years and may be reappointed for additional six-year terms. Any judge appointed under this section shall be subject to admonition, censure, removal, or retirement by the Supreme Court upon the same grounds as provided for judges of courts of record of this state.

(b) Judges of the State Bar Court appointed under this section shall not engage in the private practice of law. The State Bar Court shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. Each judge:

(1) Shall have been a licensee of the State Bar for at least five years.

(2) Shall not have any record of the imposition of discipline as an attorney in California or any other jurisdiction.

(3) Shall meet any other requirements as may be established by subdivision (d) of Section 12011.5 of the Government Code.

(c) Applicants for appointment or reappointment as a State Bar Court judge shall be screened by an applicant evaluation committee as directed by the Supreme Court. The committee, appointed by the Supreme Court, shall submit evaluations and recommendations to the appointing authority and the Supreme Court as provided in Rule 9.11 of the California Rules of Court, or as otherwise directed by the Supreme Court. The committee shall submit no fewer than three recommendations for each available position.

(d) (1) For judges appointed pursuant to this section or Section 6086.65, the board shall fix and pay reasonable compensation and expenses and provide adequate supporting staff and facilities. Hearing judges shall be paid the salary of a superior court judge. The presiding judge shall be paid the same salary as a justice of the court of appeal.

(2) Any compensation increase for State Bar Court judges on or after January 1, 2025, that is attributable to increases in the salary of a superior court judge or a justice of the court of appeal shall only be funded by license fees up to the amount of the increase that would have occurred in the absence of the changes to this subdivision made by the act adding this subdivision.

(e) From among the licensees of the State Bar or retired judges, the Supreme Court or the board may appoint pro tempore judges to decide matters in the Hearing Department of the State Bar Court when a judge of the State Bar Court is unavailable to serve without undue delay to the proceeding. Subject to modification by the Supreme Court, the board may set the qualifications, terms, and conditions of service for pro tempore judges and may, in its discretion, compensate some or all of them out of funds appropriated by the board for this purpose.

(f) A judge or pro tempore judge appointed under this section shall hear every regulatory matter pending in the Hearing Department of the State Bar Court as to which the taking of testimony or offering of evidence at trial has not commenced, and when so assigned, shall sit as the sole adjudicator, except for rulings that are to be made by the presiding judge of the State Bar Court or referees of other departments of the State Bar Court.

(g) Any judge or pro tempore judge of the State Bar Court as well as any employee of the State Bar assigned to the State Bar Court shall have the same immunity that attaches to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters the immunities accorded the State Bar, its officers and employees, or any judge or referee of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not constitute a change in, but is cumulative with, existing law.

(h) Nothing in this section shall be construed to prohibit the board from appointing persons to serve without compensation to arbitrate fee disputes under Article 13 (commencing with Section 6200) or to monitor the probation of a licensee of the State Bar, whether those appointed under Section 6079, as added by Chapter 1114 of the Statutes of 1986, serve in the State Bar Court or otherwise.

(Amended by Stats. 2024, Ch. 227, Sec. 13. (AB 3279) Effective January 1, 2025.)

6079.4. The exercise by an attorney of his or her privilege under the Fifth Amendment to the Constitution of the United States, or of any other constitutional or statutory privileges shall not be deemed a failure to cooperate within the meaning of subdivision (i) of Section 6068.

(Added by Stats. 1990, Ch. 1639, Sec. 6.)

6079.5. (a) The board shall appoint a lawyer admitted to practice in California to serve as chief trial counsel. He or she shall be appointed for a term of four years and may be reappointed for additional four-year periods. He or she shall serve at the pleasure of the board. He or she shall not engage in private practice. The State Bar shall notify the Senate Committee on Rules and the Senate and Assembly Committees on Judiciary within seven days of the dismissal or hiring of a chief trial counsel.

The appointment of the chief trial counsel is subject to confirmation by the Senate, and the time limits prescribed in Section 1774 of the Government Code for Senate confirmation and for service in office are applicable to the appointment.

He or she shall report to and serve under the Regulation, Admissions, and Discipline Oversight Committee of the Board of Trustees of the State Bar or its successor committee on attorney discipline, and shall not serve under the direction of the chief executive officer.

(b) The chief trial counsel shall have the following qualifications:

(1) Be an attorney licensed to practice in the State of California, be in good standing and shall not have committed any disciplinary offenses in California or any other jurisdiction.

(2) Have a minimum of five years of experience in the practice of law, including trial experience, with law practice in broad areas of the law.

(3) Have a minimum of two years of prosecutorial experience or similar experience in administrative agency proceedings or disciplinary agencies.

(4) Have a minimum of two years of experience in an administrative role, overseeing staff functions.

The board may except an appointee from any of the above qualifications for good cause upon a determination of necessity to obtain the most qualified person.

On or after July 1, 1987, the chief trial counsel may, as prescribed by the Supreme Court, petition the court for a different disposition of a matter than the recommendations of the review department or the board to the court.

(Amended by Stats. 2011, Ch. 417, Sec. 39. (SB 163) Effective January 1, 2012.)

6080. The State Bar Court shall keep a record of all State Bar Court disciplinary proceedings. In all disciplinary proceedings resulting in a recommendation to the Supreme Court for disbarment or suspension, the State Bar Court shall keep a transcript of the evidence and proceedings therein and shall make findings of fact thereon. The State Bar Court shall render a decision to be recorded in its minutes. In disciplinary proceedings in which no discipline has been imposed, the records thereof may be destroyed after five years.

(Amended by Stats. 2018, Ch. 659, Sec. 61. (AB 3249) Effective January 1, 2019.)

6081. Upon the making of any decision recommending the disbarment or suspension from practice of any licensee of the State Bar, the State Bar Court shall immediately file a certified copy of the decision, together with the transcript and the findings, with the Clerk/Executive Officer of the Supreme Court. Upon enrolling a licensee as an inactive licensee pursuant to Section 6007 of this code, or upon terminating or refusing to terminate such enrollment pursuant to such section the State Bar Court shall immediately give appropriate written notice to the licensee and to the Clerk/Executive Officer of the Supreme Court.

(Amended by Stats. 2018, Ch. 659, Sec. 62. (AB 3249) Effective January 1, 2019.)

6081.1. Nothing in Sections 6080 and 6081 shall require the State Bar Court to transcribe oral testimony unless ordered by the Supreme Court or requested by a party at the party's expense.

(Added by Stats. 1988, Ch. 1159, Sec. 8.)

6082. Any person complained against and any person whose reinstatement the State Bar Court may refuse to recommend may have the action of the State Bar Court reviewed by the California Supreme Court in accordance with the procedure prescribed by the California Supreme Court.

(Amended by Stats. 2018, Ch. 659, Sec. 63. (AB 3249) Effective January 1, 2019.)

6083. (a) A petition to review or to reverse or modify any decision recommending the disbarment or suspension from practice of a licensee of the State Bar may be filed with the Supreme Court by the licensee within 60 days after the filing of the decision recommending such discipline.

(b) A petition to review or to reverse or modify any decision reproving a licensee of the State Bar, or any action enrolling the licensee as an inactive licensee pursuant to Section 6007 of this code, or refusing to restore the inactive licensee to an active license, pursuant to such section may be filed with the Supreme Court by the licensee within 60 days after service upon him or her of notice of such decision or action.

(c) Upon such review the burden is upon the petitioner to show wherein the decision or action is erroneous or unlawful.

(Amended by Stats. 2018, Ch. 659, Sec. 64. (AB 3249) Effective January 1, 2019.)

6084. (a) When no petition to review or to reverse or modify has been filed by either party within the time allowed therefor, or the petition has been denied, the decision or order of the State Bar Court shall be final and enforceable. In any case in which a petition to review or to reverse or modify is filed by either party within the time allowed therefor, the Supreme Court shall make such order as it may deem proper in the circumstances. Nothing in this subdivision abrogates the Supreme Court's authority, on its own motion, to review de novo the decision or order of the State Bar Court.

(b) Notice of such order shall be given to the licensee and to the State Bar.

(c) A petition for rehearing may be filed within the time generally provided for petitions for rehearing in civil cases.

(d) For willful failure to comply with a disciplinary order or an order of the Supreme Court, or any part thereof, a licensee may be held in contempt of court. The contempt action may be brought by the State Bar in any of the following courts:

(1) In the Los Angeles or San Francisco Superior Court.

(2) In the superior court of the county of the licensee's address as shown on current State Bar licensing records.

(3) In the superior court of the county where the act or acts occurred.

(4) In the superior court of the county in which the licensee's regular business address is located.

Changes of venue may be requested pursuant to the applicable provisions of Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure.

(Amended by Stats. 2018, Ch. 659, Sec. 65. (AB 3249) Effective January 1, 2019.)

6085. Any person complained against shall be given fair, adequate, and reasonable notice and have a fair, adequate, and reasonable opportunity and right:

(a) To defend against the charge by the introduction of evidence.

(b) To receive any and all exculpatory evidence from the State Bar after the initiation of a disciplinary proceeding in State Bar Court, and thereafter when this evidence is discovered and available. This subdivision shall not require the disclosure of mitigating evidence.

(c) To be represented by counsel.

(d) To examine and cross-examine witnesses.

(e) To exercise any right guaranteed by the California Constitution or the United States Constitution, including the right against self-incrimination.

He or she shall also have the right to the issuance of subpoenas for attendance of witnesses to appear and testify or produce books and papers, as provided in this chapter.

(Amended by Stats. 1999, Ch. 342, Sec. 4. Effective January 1, 2000.)

6085.5. There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a licensee:

(a) Admission of culpability.

(b) Denial of culpability.

(c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the licensee completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the licensee culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the licensee as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based.

(Amended by Stats. 2018, Ch. 659, Sec. 66. (AB 3249) Effective January 1, 2019.)

6086. The board of trustees, subject to the provisions of this chapter, may by rule provide the mode of procedure in all cases of complaints against licensees.

(Amended by Stats. 2018, Ch. 659, Sec. 67. (AB 3249) Effective January 1, 2019.)

6086.1. (a) (1) Subject to subdivision (b), and except as otherwise provided by law, hearings and records of original disciplinary proceedings in the State Bar Court shall be public, following the filing of a notice of disciplinary charges.

(2) Subject to subdivision (b), and except as otherwise provided by law, hearings and records of the following matters shall be public:

(A) Filings for involuntary inactive enrollment or restriction under subdivision (a), (c), (d), or (e) of Section 6007.

(B) Petitions for reinstatement under Section 6078.

(C) Proceedings for suspension or disbarment under Section 6101 or 6102.

(D) Payment information from the Client Security Fund pursuant to Section 6140.5.

(E) Actions to cease a law practice or assume a law practice under Section 6180 or 6190.

(b) All disciplinary investigations are confidential until the time that formal charges are filed and all investigations of matters identified in paragraph (2) of subdivision (a) are confidential until the formal proceeding identified in paragraph (2) of subdivision (a) is instituted. These investigations shall not be disclosed pursuant to any state law, including, but not limited to, the California Public

Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). This confidentiality requirement may be waived under any of the following exceptions:

(1) The licensee whose conduct is being investigated or has been investigated consents to a public announcement or disclosure.

(2) (A) The Chief Trial Counsel, with the written concurrence of the chair of the board, may waive confidentiality, but only if both of the following are met:

(i) Disclosure is warranted for protection of the public and the provisions of subdivision (c) are inadequate for the protection of the public.

(ii) It is determined that disclosure is necessary to prevent an immediate harm to the public, including, but not limited to, ongoing fraud, theft, or embezzlement.

(B) Under the circumstances in this paragraph, after private notice to the licensee, the Chief Trial Counsel or chair of the board may issue, if appropriate, one or more public announcements or make information public generally or to specified individuals or entities. Any disclosure made under this paragraph shall include a statement defending the right of the licensee to a fair hearing and shall be limited to doing some or all of the following:

(i) Confirming the fact of an investigation or proceeding.

(ii) Providing a brief factual summary to identify the subject matter of the investigation or proceeding.

(iii) Providing the status of the investigation or proceeding.

(C) If the Chief Trial Counsel or chair of the board for any reason self-disqualifies from acting under this paragraph or is otherwise unavailable to act under this paragraph, the Chief Trial Counsel or chair of the board shall designate someone to act on their behalf.

(3) The Chief Trial Counsel or Chief Trial Counsel's designee may waive confidentiality pursuant to Section 6044.5.

(c) (1) Notwithstanding the confidentiality of investigations, the board may vote to waive confidentiality, but only when warranted for protection of the public. The board shall hold a meeting under this subdivision in closed session.

(A) The board shall provide a licensee whose confidential information is being considered for disclosure five days' notice of the fact that the board will be meeting to consider waiving confidentiality and that the licensee may, in advance of the meeting, submit a written statement to the board for the board's consideration at the meeting. The licensee shall not be permitted to attend the closed session meeting of the board.

(B) When assessing whether to waive confidentiality and to what extent the board shall, at a minimum:

(i) Apply a presumption in favor of maintaining confidentiality.

(ii) Consider the extent to which the allegations or issues involved in the investigation are generally known to the public.

(iii) Consider the gravity of the underlying allegation and potential for continued harm to the public.

(iv) Consider the potential for harm to the reputation of the licensee.

(C) All materials for the board's consideration pursuant to this subdivision, including the written statement from the licensee, shall be confidential and not disclosed as a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) If the board votes to waive confidentiality pursuant to paragraph (1) and only after complying with the requirements in paragraph (3), the Chief Trial Counsel or chair of the board may issue, if appropriate, one or more public announcements or make information public generally or to specified individuals or entities. Any disclosure under this paragraph shall include a statement defending the right of the licensee to a fair hearing and shall be limited to doing some or all of the following:

(A) Confirming the fact of an investigation or proceeding.

(B) Providing a brief factual summary to identify the subject matter of the investigation or proceeding.

(C) Providing the status of the investigation or proceeding.

(3) Before making any public announcements pursuant to paragraph (2), the State Bar shall provide notice to the licensee via email at the address shown on the licensee's registration records of the State Bar and via United States mail to the physical address shown on the licensee's registration records of all of the following:

(A) The fact that the board has voted to waive confidentiality.

(B) A description of the information that may be disclosed to the public.

(C) That the licensee has five business days from the date of the notice to notify the State Bar that they are contesting the release of the information.

(d) (1) A licensee may file a motion with the State Bar Court to prevent the State Bar from disclosing information pursuant to subdivision (c). The motion shall be filed within seven court days from the date of the notice issued to the licensee under paragraph (3) of subdivision (c).

(2) If a licensee files a motion under paragraph (1) the proceeding shall be afforded priority on the State Bar Court calendar, and the court shall issue a ruling within 10 court days from the filing of the motion.

(3) The State Bar shall adopt procedures to enact the provisions of this subdivision via the rulemaking process.

(4) All hearings on motions pursuant to this subdivision shall be confidential.

(e) Notwithstanding the confidentiality of investigations, the State Bar shall disclose to any member of the public so inquiring, any information reasonably available to it pursuant to subdivision (o) of Section 6068, and to Sections 6086.7, 6086.8, and 6101, concerning a licensee of the State Bar that is otherwise a matter of public record, including civil or criminal filings and dispositions.

(Amended by Stats. 2023, Ch. 697, Sec. 17. (SB 40) Effective January 1, 2024.)

6086.2. All State Bar records pertaining to admissions, licensing, and the administration of the program authorized by Article 14 of this chapter shall be available to the Office of Trial Counsel and the Office of Investigations for use in the investigation and prosecution of complaints against licensees of the State Bar, except to the extent that disclosure is prohibited by law.

(Amended by Stats. 2018, Ch. 659, Sec. 69. (AB 3249) Effective January 1, 2019.)

6086.20. (a) Commencing January 1, 2025, the Chief Trial Counsel shall not issue private reprimands to any attorney accused of misconduct.

(b) On or before April 1, 2024, the board, in consultation with the Chief Trial Counsel, shall provide to the Assembly and Senate Judiciary Committees recommendations for codifying a formal disciplinary diversion program for attorneys accused of minor violations of the Rules of Professional Conduct.

(Added by Stats. 2023, Ch. 697, Sec. 19. (SB 40) Effective January 1, 2024.)

6086.5. (a) The board of trustees shall establish a State Bar Court, to act in its place and stead in the determination of disciplinary and reinstatement proceedings and proceedings pursuant to subdivisions (b) and (c) of Section 6007 to the extent provided by rules adopted by the board of trustees pursuant to this chapter. In these proceedings the State Bar Court may exercise the powers and authority vested in the board of trustees by this chapter, including those powers and that authority vested in committees of, or established by, the board, except as limited by rules of the board of trustees within the scope of this chapter.

(b) Access to records of the State Bar Court shall be governed by court rules and laws applicable to records of the judiciary and not the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050, 6051, 6052, 6077 (excluding the first sentence), 6078, 6080, 6081, and 6082, "board" includes the State Bar Court.

(d) (1) Nothing in this section shall authorize the State Bar Court to adopt rules of professional conduct or rules of procedure.

(2) The Executive Committee of the State Bar Court may adopt rules of practice for the conduct of all proceedings within its jurisdiction. These rules may not conflict with the rules of procedure adopted by the board, unless approved by the Supreme Court.

(Amended by Stats. 2021, Ch. 615, Sec. 18. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

6086.65. (a) There is a Review Department of the State Bar Court, that consists of the Presiding Judge of the State Bar Court and two Review Department judges appointed by the Supreme Court. The judges of the Review Department shall be nominated, appointed, and subject to discipline as provided by subdivision (a) of Section 6079.1, shall be qualified as provided by subdivision (b) of Section 6079.1, and shall be compensated as provided for the presiding judge by subdivision (d) of Section 6079.1. However, the two Review Department judges may be appointed to, and paid as, positions occupying one-half the time and pay of the presiding judge. Candidates shall be rated and screened pursuant to Rule 9.11 of the California Rules of Court or as otherwise directed by the Supreme Court.

(b) The Presiding Judge of the State Bar Court shall appoint an Executive Committee of the State Bar Court of no fewer than seven persons, including one person who has never been a licensee of the State Bar or admitted to practice law before any court in the United States. The Executive Committee may adopt rules of practice for the operation of the State Bar Court as provided in Section 6086.5.

(c) Any decision or order reviewable by the Review Department and issued by a judge of the State Bar Court appointed pursuant to Section 6079.1 may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. The standard to be applied by the Review Department in reviewing a decision, order, or ruling by a hearing judge fully disposing of a proceeding is established in Rule 9.12 of the California Rules of Court, or as otherwise directed by the Supreme Court.

(Amended by Stats. 2018, Ch. 659, Sec. 70. (AB 3249) Effective January 1, 2019.)

6086.7. (a) A court shall notify the State Bar of any of the following:

(1) A final order of contempt imposed against an attorney that may involve grounds warranting discipline under this chapter. The court entering the final order shall transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

(2) Whenever a modification or reversal of a judgment in a judicial proceeding is based in whole or in part on the misconduct, incompetent representation, or willful misrepresentation of an attorney.

(3) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The imposition of any civil penalty upon an attorney pursuant to Section 8620 of the Family Code.

(5) A violation described in paragraph (1) of subdivision (a) of Section 1424.5 of the Penal Code by a prosecuting attorney, if the court finds that the prosecuting attorney acted in bad faith and the impact of the violation contributed to a guilty verdict, guilty or nolo contendere plea, or, if identified before conclusion of trial, seriously limited the ability of a defendant to present a defense.

(b) In the event of a notification made under subdivision (a) the court shall also notify the attorney involved that the matter has been referred to the State Bar.

(c) The State Bar shall investigate any matter reported under this section as to the appropriateness of initiating disciplinary action against the attorney.

(Amended by Stats. 2015, Ch. 467, Sec. 1. (AB 1328) Effective January 1, 2016.)

6086.8. (a) Within 20 days after a judgment by a court of this state that a licensee of the State Bar of California is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity, the court which rendered the judgment shall report that fact in writing to the State Bar of California.

(b) Every claim or action for damages against a licensee of the State Bar of California for fraud, misrepresentation, breach of fiduciary duty, or negligence committed in a professional capacity shall be reported to the State Bar of California within 30 days of receipt by the admitted insurer or licensed surplus brokers providing professional liability insurance to that licensee of the State Bar.

(c) An attorney who does not possess professional liability insurance shall send a complete written report to the State Bar as to any settlement, judgment, or arbitration award described in subdivision (b), in the manner specified in that subdivision.

(Amended by Stats. 2018, Ch. 659, Sec. 71. (AB 3249) Effective January 1, 2019.)

6086.10. (a) Any order imposing a public reproof on a licensee of the State Bar shall include a direction that the licensee shall pay costs. In any order imposing discipline, or accepting a resignation with a disciplinary matter pending, the Supreme Court shall include a direction that the licensee shall pay costs. An order imposing costs pursuant to this subdivision is enforceable both as provided in Section 6140.7 and as a money judgment. The State Bar may collect these costs through any means provided by law.

(b) The costs required to be imposed pursuant to this section include all of the following:

(1) The actual expense incurred by the State Bar for the original and copies of any reporter's transcript of the State Bar proceedings, and any fee paid for the services of the reporter.

(2) All expenses paid by the State Bar which would qualify as taxable costs recoverable in civil proceedings.

(3) The charges determined by the State Bar to be "reasonable costs" of investigation, hearing, and review. These amounts shall serve to defray the costs, other than fees for the services of attorneys or experts, of the State Bar in the preparation or hearing of

disciplinary proceedings, and costs incurred in the administrative processing of the disciplinary proceeding and in the administration of the Client Security Fund.

(c) A licensee may be granted relief, in whole or in part, from an order assessing costs under this section, or may be granted an extension of time to pay these costs, in the discretion of the State Bar, upon grounds of hardship, special circumstances, or other good cause.

(d) If an attorney is exonerated of all charges following a formal hearing, the attorney is entitled to reimbursement from the State Bar in an amount determined by the State Bar to be the reasonable expenses, other than fees for attorneys or experts, of preparation for the hearing.

(e) In addition to other monetary sanctions as may be ordered by the Supreme Court pursuant to Section 6086.13, costs imposed pursuant to this section are penalties, payable to and for the benefit of the State Bar of California, a public corporation created pursuant to Article VI of the California Constitution, to promote rehabilitation and to protect the public. This subdivision is declaratory of existing law.

(Amended by Stats. 2020, Ch. 360, Sec. 4. (AB 3362) Effective January 1, 2021.)

6086.13. (a) Any order of the Supreme Court imposing suspension or disbarment of a licensee of the State Bar, or accepting a resignation with a disciplinary matter pending may include an order that the licensee pay a monetary sanction not to exceed five thousand dollars (\$5,000) for each violation, subject to a total limit of fifty thousand dollars (\$50,000).

(b) Monetary sanctions collected under subdivision (a) shall be deposited into the Client Security Fund.

(c) The State Bar shall, with the approval of the Supreme Court, adopt rules setting forth guidelines for the imposition and collection of monetary sanctions under this section.

(d) The authority granted under this section is in addition to the provisions of Section 6086.10 and any other authority to impose costs or monetary sanctions.

(e) Monetary sanctions imposed under this section shall not be collected to the extent that the collection would impair the collection of criminal penalties or civil judgments arising out of transactions connected with the discipline of the attorney. In the event monetary sanctions are collected under this section and criminal penalties or civil judgments arising out of transactions connected with the discipline of the attorney are otherwise uncollectible, those penalties or judgments may be reimbursed from the Client Security Fund to the extent of the monetary sanctions collected under this section.

(Amended by Stats. 2018, Ch. 659, Sec. 73. (AB 3249) Effective January 1, 2019.)

6086.14. (a) The Board of Trustees of the State Bar is authorized to formulate and adopt rules and regulations necessary to establish an alternative dispute resolution discipline mediation program to resolve complaints against attorneys that do not warrant the institution of formal investigation or prosecution. The program should identify sources of client dissatisfaction and provide a mediation process to resolve those complaints or disputes unless the client objects to mediation. The refusal of an attorney to participate in the State Bar's alternative dispute resolution discipline mediation program established pursuant to this section, or the failure of an attorney to comply with any agreement reached in the State Bar's alternative dispute resolution discipline mediation program may subject that attorney to discipline. The rules may authorize discipline mediation under this article to proceed under discipline mediation programs sponsored by local bar associations in this state. The rules shall authorize a local bar association to charge a reasonable administrative fee for the purpose of offsetting the costs of maintaining the discipline mediation programs.

(b) The board of trustees shall have the authority to formulate and adopt standards and guidelines to implement the alternative dispute resolution discipline mediation program. The standards and guidelines formulated and adopted by the board, as from time to time amended, shall be effective and binding on all licensees, and may encompass any discipline mediation programs sponsored by local bar associations.

(c) It is the intent of the Legislature that the authorization of an alternative dispute resolution discipline mediation program not be construed as limiting or altering the powers of the Supreme Court of this state or the State Bar to disbar or discipline licensees of the State Bar. The records relating to the alternative dispute resolution discipline mediation program may be made available in any subsequent disciplinary action pursuant to any rule, standard, or guideline adopted by the Board of Trustees of the State Bar.

(Amended by Stats. 2018, Ch. 659, Sec. 74. (AB 3249) Effective January 1, 2019.)

6086.15. (a) The State Bar shall issue an Annual Discipline Report by November 30 of each year describing the performance and condition of the State Bar discipline system, including all matters that affect public protection. Except as set forth in subdivision (d), the report shall cover the period from July 1 of the previous calendar year to June 30 of the year in which the report is issued and shall include accurate and complete descriptions of all of the following:

(1) The inventory of cases within the Office of Chief Trial Counsel which were open at the start of the reporting period, were opened during the reporting period, remain pending with the office at the close of the reporting period, or were disposed of during

the reporting period by closure, by filing of a stipulation with the State Bar Court, by filing of a notice of disciplinary charges with the State Bar Court, or by transmittal of a criminal conviction to the State Bar Court. The State Bar shall also report on its success in meeting the case processing goals set forth in Section 6094.5, including, but not limited to, tables showing the number and percentage of cases meeting each goal, the number and percentage of those cases not disposed of within the case processing goals, and a high-level explanation of the reasons for failing to meet those case processing goals. The inventory of cases shall not be limited to case types that could result in the filing of a notice of disciplinary charges in the State Bar Court, but shall also include Nonattorney Unauthorized Practice of Law (NA-UPL), Section 6007 matters, moral character matters, resignations with charges pending, and mini-reinstatements.

(2) The number of inquiries and complaints and their disposition.

(3) The number, average pending times, and types of matters self-reported by licensees of the State Bar pursuant to subdivision (o) of Section 6068 and subdivision (c) of Section 6086.8.

(4) The number, average pending times, and types of matters reported by other sources pursuant to Sections 6086.7, 6086.8, 6091.1, subdivisions (b) and (c) of Section 6101, and Section 6175.6.

(5) The speed of complaint handling and dispositions by type, measured by the median and the average processing times.

(6) The number, average pending times, and types of filed notices of disciplinary charges and formal disciplinary outcomes.

(7) The number, average pending times, and types of other matters, including petitions to terminate practice pursuant to Section 6180 or 6190, interim suspensions and license restrictions pursuant to Section 6007, motions to enforce a binding arbitration award, judgment, or agreement pursuant to subdivision (d) of Section 6203, motions to revoke probation, letters of warning, private reprovals, admonitions, and agreements in lieu of discipline.

(8) The number, average pending times, and outcomes of complaints involving a State Bar licensee who has been disbarred or who has resigned, and is engaged in the unauthorized practice of law, including referrals to district attorneys, city attorneys, or other prosecuting authorities, or petitions to terminate practice pursuant to Section 6180.

(9) The number, average pending times, and outcomes of complaints against nonattorneys engaged in the unauthorized practice of law, including referrals to district attorneys, city attorneys, or other prosecuting authorities; petitions to terminate practice pursuant to Section 6126.3; or referrals to prosecuting authorities or actions by the State Bar pursuant to Section 6126.7.

(10) A description of the condition of the Client Security Fund, including an accounting of payouts.

(11) An accounting of the cost of the discipline system by function.

(12) Compliance with the requirement of Section 6101 to transmit, within 30 days of receipt, the record of any criminal conviction which involves or may involve moral turpitude to the Supreme Court, or to close the matter if transmittal to the Supreme Court is not appropriate.

(b) The Annual Discipline Report shall include statistical information presented in a consistent manner for year-to-year comparison.

(c) The Annual Discipline Report shall be presented to the Chief Justice of California, to the Governor, to the Speaker of the Assembly, to the President pro Tempore of the Senate, and to the Assembly and Senate Judiciary Committees, for their consideration and shall be considered a public document.

(d) (1) All data relating to the items set forth in subdivision (a) shall also be reported, if available, for the preceding five years. Data from 2020 and prior years shall be reported for the calendar year. Except as specified in paragraph (2), data from 2021 and future years shall be reported based on the state fiscal year.

(2) The Annual Discipline Report due on October 31, 2022, shall include data from both the prior state fiscal year and the prior calendar year.

(Amended by Stats. 2023, Ch. 697, Sec. 18. (SB 40) Effective January 1, 2024.)

6086.16. The State Bar shall report to the Assembly and Senate Committees on Judiciary by January 1, 2005, on the status of its regulatory and disciplinary efforts concerning alleged abuses by private actions brought on behalf of the general public pursuant to Section 17204 of the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Division 6).

(Added by Stats. 2003, Ch. 334, Sec. 5. Effective January 1, 2004.)

6087. Nothing in this chapter shall be construed as limiting or altering the powers of the Supreme Court of this State to disbar or discipline licensees of the bar as this power existed prior to the enactment of Chapter 34 of the Statutes of 1927, relating to the State Bar of California.

Notwithstanding any other law, the Supreme Court may by rule authorize the State Bar to take any action otherwise reserved to the Supreme Court in any matter arising under this chapter or initiated by the Supreme Court; provided, that any such action by the State Bar shall be reviewable by the Supreme Court pursuant to such rules as the Supreme Court may prescribe.

(Amended by Stats. 2018, Ch. 659, Sec. 76. (AB 3249) Effective January 1, 2019.)

6088. The board may provide by rule that alleged facts in a proceeding are admitted upon failure to answer, failure to appear at formal hearing, or failure to deny matters specified in a request for admissions; the party in whose favor the facts are admitted shall not be required to otherwise prove any facts so admitted. However, the rules shall provide a fair opportunity for the party against whom facts are admitted to be relieved of the admission upon a satisfactory showing, made within 30 days of notice that facts are admitted, that (a) the admissions were the result of mistake or excusable neglect, and (b) the admitted facts are actually denied by the party.

(Added by Stats. 1986, Ch. 1114, Sec. 7.)