

PROPOSED *NEW* RULES 951.2 AND 951.3,
CALIFORNIA RULES OF COURT

RULE 951 Authority of the State Bar Court

[Subsections (a) through (e) remain unchanged.]

(f) ~~[Readmission and Reinstatement]~~

~~Applications for readmission or reinstatement shall, in the first instance, be filed and heard by the State Bar Court. Applicants for readmission or reinstatement shall (1) pass a professional responsibility examination, (2) establish their rehabilitation and present moral qualifications for readmission, and (3) establish present ability and learning in the general law. The State Bar may require applicants who fail to make the affirmative showing of sufficient present learning in the general law to demonstrate such learning by passing one of the General Examinations required of applicants for admission.~~

[Subsection (g) is re-lettered as subsection (f)]

RULE 951.2 Reinstatement after Resignation with Charges Pending or Disbarment

(a) [General Requirements]

Petitions for reinstatement must, in the first instance, be filed and heard by the State Bar Court. Petitioners for reinstatement must: (1) pass a professional responsibility examination; (2) establish their rehabilitation and present moral qualifications for reinstatement; and (3) establish present ability and learning in the general law.

(b) [Passage of Attorney Bar Examination as Condition of Reinstatement]

Except as provided by order of the Supreme Court, a petitioner seeking reinstatement to the practice of law in the State of California, following resignation with charges pending, or an order of disbarment, must provide proof at the time of filing the petition for reinstatement that he or she has taken and passed the Attorney Bar Examination, administered by the Committee of Bar Examiners, within 3 years prior to the filing of a petition for reinstatement. Proof of passage will, for purposes of reinstatement only, be deemed to establish the requisite present ability and learning in the general law.

(c) [Payment of Discipline Costs and Client Security Fund Reimbursement]

No petition for reinstatement following resignation with charges pending or an order of disbarment may be filed unless and until the petitioner has provided satisfactory proof to the State Bar Court that he or she has paid all discipline costs imposed pursuant to Business and Professions Code section 6086.10(a) and all reimbursement for payments made by the Client Security Fund as a result of the petitioner's conduct, plus applicable interest and costs, pursuant to Business and Professions Code section 6140.5(c).

(d) [Earliest Time for Filing Reinstatement Petition Following Disbarment or Resignation with Charges Pending]

Except as provided by order of the Supreme Court, no petition for reinstatement may be filed within 7 years after the effective date of the petitioner's disbarment, interim suspension following criminal conviction, the filing date of the petitioner's resignation with charges pending or the commencement of a period of inactive enrollment imposed as a result of the misconduct for which the petitioner was disbarred or resigned, whichever occurred first.

(e) [State Bar Court Recommendation Regarding Permanent Disbarment]

Except as provided by order of the Supreme Court, the State Bar Court, in any recommendation involving the disbarment of a member, must also recommend whether the member should be permanently prohibited from filing a petition for reinstatement. In making its recommendation, the State Bar Court must consider the following guidelines that illustrate the types of conduct that warrant permanent disbarment:

- (i) conviction of a crime involving malfeasance in public office which involved fraud or the embezzlement or intentional misuse of public funds;
- (ii) engaging in multiple instances of the intentional theft or conversion of client funds, resulting in substantial harm to one or more victims;
- (iii) engaging in the intentional corruption of the judicial process, including but not limited to bribery, forgery, perjury or subornation of perjury;
- (iv) engaging in multiple instances of insurance fraud committed in the course of the practice of law, including but not limited to staged accidents, the submission of false or fraudulent claims for the payment of a loss or injury or repeated instances of runner-based solicitation;
- (v) engaging in the unauthorized practice of law when the member knew of his or her disbarment, resignation or suspension from practice;

- (vi) the member was previously disbarred or resigned with disciplinary charges pending; and
- (vii) engaging in conduct, involving fraud, moral turpitude or a pattern of serious misconduct that is so egregious that the member should be permanently disbarred.

(f) [Subsequent Petitions for Reinstatement Following Disbarment or Resignation with Charges Pending]

A subsequent petition for reinstatement following disbarment or resignation with charges pending may not be filed earlier than 2 years after the effective date of an adverse decision upon a prior petition and shall include a further requirement that the petitioner take and pass the Attorney Bar Examination administered by the Committee of Bar Examiners, unless proof of passage with the prior 5 years is provided. Proof of passage of the Attorney Bar Examination will establish, by clear and convincing evidence, that petitioner possesses the requisite present ability and learning in the general law.

In any adverse decision on a petition for reinstatement following disbarment or resignation with charges pending, the State Bar Court must order that the petitioner be permanently prohibited from filing a subsequent petition for reinstatement if the State Bar Court finds, by clear and convincing evidence, that (1) petitioner has engaged in conduct subsequent to his or her disbarment or resignation with charges pending that would have warranted permanent disbarment pursuant to subsection (e) of this rule; or (2) the conduct that resulted in petitioner's resignation with charges pending would have warranted permanent disbarment pursuant to subsection (e) of this rule.

RULE 951.3 Readmission after Resignation without Charges Pending

(a) [General Requirements]

Petitions for readmission must, in the first instance, be filed and heard by the State Bar Court. Petitioners for readmission must: (1) pass a professional responsibility examination; (2) establish their rehabilitation and present moral qualifications for readmission; and (3) establish present ability and learning in the general law.

(b) [Time for Filing First and Subsequent Readmission Petitions Following Resignation Without Charges Pending]

Unless otherwise ordered by the Supreme Court, after resignation without charges pending, a first or subsequent petition for readmission may be filed at any time.

(c) [Passage of Attorney Bar Examination as Condition of Readmission]

Except as provided by order of the Supreme Court, a petitioner seeking readmission to the practice of law in the State of California 5 years or more following resignation without charges pending, must take and pass the Attorney Bar Examination, administered by the Committee of Bar Examiners, within 2 years prior to the filing of the petition for readmission. Proof of passage will, for purposes of readmission only, be deemed to establish, by clear and convincing evidence, that the petitioner possesses the requisite present ability and learning in the general law.