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RULES GOVERNING OPEN MEETINGS, CLOSED SESSIONS  
AND RECORDS OF REGULATORY AND SPECIAL COMMITTEES

(Adopted by the Board of Governors of the State Bar of California, January 20, 1990)  
(Effective April 1, 1990)

Section 1: Definitions

~~As used in these rules, “committee” means (1) Committee of Bar Examiners, (2) Board of Legal Specialization and its Advisory Commissions, (3) Complainants Grievance Panel, (4) Client Security Fund Commission, (5) Executive Committee of State Bar Court, and (6) Mandatory Fee Arbitration Committee~~

**(a) As used in these rules, “committee” means a committee (including a special committee and section executive committee), board or commission appointed by the Board of Governors, except a committee composed entirely of members of the Board of Governors;**

**(b) “office director” means the Office Director of the State Bar Office which is responsible for providing primary staff support to the committee, or said Office Director’s designee;**

**(c) “chair of the committee” means chair of the committee appointed by or pursuant to any other appointing authority, or the person presiding at a meeting of a committee in the absence of such chair or presiding officer.**

Section 2: Open/Closed Sessions

~~Committee meetings pertaining to matters in which the committee is acting in a quasi-legislative capacity under delegated authority of the Board of Governors or matters on which the committee may provide advice to the Board of Governors shall be open to the public except those meetings or portions thereof pertaining to matters that are within the lettered subdivisions of section 6026.5 of the Business and Professions Code, provided that:~~

**(a)** Those selecting a committee meeting site must take into consideration the possibility that members of the public may wish to attend the meeting. However, due to budget constraints and other factors such as the inability to predict the number of members of the public which may attend any particular committee meeting, the availability of meeting room space at the time scheduled for the committee meeting, and the fact that committee meetings are authorized to be held in the offices of committee members, space for members of the public who attend open sessions of committee meetings may be limited and the State Bar is not obligated to provide seating for all members of the public in attendance.

**(b) Notwithstanding the provisions of this section, a committee may use teleconferencing for the benefit of the public in connection with any meeting. The teleconferenced meeting shall comply with all requirements of these rules. All votes taken during a teleconferenced meeting shall be by rollcall.**

- (i) **For the purposes of this section “teleconference” means a meeting of the board, the members of which are in different locations, connected by electronic means, through either audio or video, or both.**
  - (ii) **If a committee meeting is held by teleconference, a teleconference location accessible to the public shall be made available and this teleconference location shall be identified in the notice and agenda for the meeting.**
- (bc) The chair of the committee shall be authorized in his or her discretion to permit or decline to permit members of the public to address the committee during the meeting.
- (ed) ~~The~~ **Those** committees which are governed by **specific rules adopted by the Board of Governors which provide a procedure for closed sessions** ~~(1) the Rules of Procedure - Client Security Fund Matters, and (2) the Rules of Procedure of the State Bar of California,~~ shall hold closed sessions as specified in said rules.
- (de) A committee shall not open a committee meeting to the public where the matters being considered (1) fall within the attorney-client privilege, (2) involve a trade secret, (3) are otherwise privileged from disclosure, or (4) involve information received or held by the State Bar that is protected by the California constitutional guarantee of privacy, without specific approval of a majority of a duly constituted quorum of the Board of Governors.
- (ef) Matters subject to closed session at Board of Governors meetings and Board Committee meetings (i.e., those within the categories of matters specified in the lettered subdivisions of section 6026.5 of the Business and Professions Code and Article 3 of the Rules Governing Open Meetings, Closed Sessions and Records of the Board of Governors of the State Bar of California) shall be closed and shall not be opened by a committee without the specific approval of a majority of a duly constituted quorum of the Board of Governors.
- (fg) A committee may hold closed sessions in circumstances where the chair determines that an open session would pose a threat to the security of the meeting premises or to the safety of those participating in the meeting.
- (gh) A committee may hold closed sessions to discuss, deliberate or act upon matters of internal management relating to the committee.
- (i) **A committee may hold closed sessions to discuss, deliberate or act upon opinions or reports in specific cases within the scope of its charter**
- (hj) At the discretion of the chair of the committee, members of the State Bar staff, and others who are reasonably necessary for the consideration of closed session matter, may attend closed sessions of the committee.

- (ik) The Board of Legal Specialization and its Advisory Commissions may hold closed sessions to discuss, deliberate or act upon the following: (1) an application for certification or recertification, (2) the suspension or revocation of a specialist's certificate, (3i) any petitions or special requests from an applicant or certified specialist (e.g., request for extension of time to complete a requirement), and (4) matters involving the development, preparation, approval, grading, review or administration of an examination, including its storage or shipment.
- (jl) The Committee of Bar Examiners may hold closed sessions to discuss, deliberate or act upon the following: (a 1) matters in which it is reasonably necessary to identify a student registered with the Committee or an applicant for admission in order to appropriately consider the matters, and (b2) matters involving the development, preparation, approval, grading, review or administration of an examination, including its storage or shipment.
- (m) **The Committee on Group Insurance Programs and the Standing Committee on the State Bar Approved Professional Liability Insurance Program may hold closed sessions to discuss, deliberate or act on the following:**
  - (1) **The construction of: (A) agreements between the State Bar and particular insurance carriers, administrators or brokers, including construction of agreements which had been in effect in the past and possible future agreements; and (B) provisions of insurance coverage offered to State Bar members through a State Bar approved program;**
  - (2) **Complaints concerning State Bar approved insurance programs which involved the specific circumstances of particular individuals;**
  - (3) **Proposals or specifications for new State Bar approved insurance programs, including consideration of positions to be taken by or on behalf of the committee in discussions or negotiations concerning such proposals or specifications;**
  - (4) **Pending or prospective litigation, whether counsel is present or not;**
  - (5) **The appointment, employment or termination of an administrator or broker of a State Bar approved insurance program, or to discuss the performance of, or complaints made against such administrator or broker; and**
  - (6) **The termination of a State Bar approved insurance program.**

Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

### Section 3: Mailed Notice of Meetings; Inclusion of Agenda; Time; Request for Notice and Renewal; Annual Charge for Sending

- (a) The office director shall, **at least 72 hours before a regular or special meeting of the committee, post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. The agenda shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public.** ~~cause mailed notice to be given of every regular meeting and any special meeting of the committee which is called, at least ten days prior to the date set for the meeting, to any person who has filed a written request for such notice with the office director. Any mailed notice shall include or incorporate the specific agenda for the meeting and shall be mailed at least ten days prior to the date set for the meeting to which it applies, except that the office director may cause such notice to be given as the office director deems practical of meetings pursuant to subdivision (b) of section 4 of these rules, called less than ten days prior to the date set for the meeting.~~ The agenda need not include a list of any witnesses expected to appear at the meeting, but shall state the specific items of business to be transacted or discussed.
- (b) Prior to holding any closed session, the notice **and agenda** required for the meeting by subdivision (a) of this section shall state the general reason for the closed session, and shall cite the specific authority therefor. Nothing in these rules shall be construed to require or authorize the disclosure of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge particular facts concerning the closed session.
- ~~(c) Any request for notice pursuant to this rule shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for notice shall be filed within 90 days after January 1 of each year.~~
- ~~(d)~~(c) A person may request, and shall be provided the open meeting agenda packet distributed to committee members, and the State Bar may establish a reasonable charge for furnishing any such packet based on the estimated cost of such service.

### Section 4: Agendas, Emergency, Items and Meetings

- (a) Policy - No item shall be added to an agenda subsequent to the ~~ten days~~ **notice period** required by subdivision (a) of section 3 of these rules, nor final action taken on items of business not appearing on an agenda, except as provided in this article.

- (b) Late Added Items; Unnoticed Meetings - The chair of the committee may add items to be transacted to the agenda of an open meeting or closed session, or schedule unnoticed meetings or closed sessions, **or arrange for the committee to take action voting by fax poll**, should an emergency justify such an action. For purposes of this section “emergency” means a combination of circumstances or the resulting state that calls for immediate action before the next regularly noticed meeting or closed session. **Action by fax poll is appropriate where the subject matter requires no discussion or deliberation and where the same action taken at a regular committee meeting would appear on the consent agenda.** A statement of any action taken at an unnoticed meeting or any matter considered at an unnoticed closed session shall be included in the notice required by subdivision (a) of section 3 of the rules, for the next succeeding properly noticed meeting. The subject matter of any item added to the agenda of a properly noticed closed session shall be stated by the chair of the committee prior to commencement of the closed session. Nothing in this section shall be construed to require or authorize the disclosure of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge particular facts concerning the closed session.

#### Section 5: Committee Records

As used in these rules “record” or “records” means agendas and other written material when distributed to a majority of committee members, relating to an open session. Records are public records as soon as distributed, and shall be made available to the public by the office director provided that this subdivision (a) shall not include written memoranda prepared for the committee, or its members, by a General Counsel attorney, or other attorney holding a fiduciary relationship to the committee of attorney to client if the memoranda was written in the course of such fiduciary relationship.

#### Section 6: Times When Records are Open to Inspection

Records of the committee are open to inspection at all times during the office hours of the State Bar, and every person has a right to inspect any such record, except as hereinafter provided.

#### Section 7: Records Exempt From Disclosure Requirements

Nothing in these rules shall be construed to require disclosure of records that are any of the following:

- (a) Records directly relating to matters that would be exempt from disclosure at meetings of the Board of Governors or a board committee.
- (b) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law including, but not limited to, court decisions, Rules of Procedure of the State Bar, provisions of the Evidence Code relating to privilege, and provisions

of law relating to privacy.

- (c) Records involving or related to advice or representation, litigation or claims, in the custody of or maintained by the General Counsel or such other attorney as is specified in subdivision (a) of section 5 of these rules, provided that records shall not be transferred to the General Counsel or such other attorney to evade the disclosure provisions of this article.
- (d) Personal drafts, notes or memoranda which are not maintained nor distributed in the course of committee business.

Nothing in these rules is to be construed as preventing the Board of Governors from opening records to public inspection, unless disclosure is otherwise prohibited by law.

#### Section 8: Withholding records from Inspection; Justification; Public Interest

The office director shall justify withholding any record by stating the express provision of law under which the record is exempt from disclosure.

#### Section 9: Right to Copy of Identifiable Public Records; Fees

Any person may receive in accordance with these rules a copy of any identifiable record or copy thereof. Upon request, an exact copy shall be provided unless impracticable to do so.

Except with respect to records exempt from disclosure, the office director, upon any request for a copy of records which reasonably describes an identifiable record or information produced therefrom, shall in accordance with these rules make the records available as soon as practicably possible to any person. Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt. The State Bar may establish and charge a reasonable fee for making records available, which fee, or a reasonable deposit to be used to defray such fee, may be required in advance of reproduction or mailing. Taking into consideration the other staff workload and priorities and volume of the records requested, the office director may, in his or her discretion, have the records copied by an outside printing or duplicating establishment, in which case the requestor shall pay no less than the reproduction cost charged by such outside establishment.

#### Section 10: Denial of Request for Records

Nothing in these rules shall be construed to permit a delay in access for purposes of inspecting public records. Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.