



Supreme Court of California

350 McAllister Street, San Francisco, California 94102-3688

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INVITATION TO COMMENT

SP16-11

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| Title | Action Requested |
| Attorney Admissions: Disclosure of Applicant and Examination Information | Review and submit comments by Wednesday, October 26, 2016 |
| Proposed Rules, Forms, Standards, or Statutes | Proposed Effective Date |
| Adopt Cal. Rules of Court, rule 9.8 | November 16, 2016 |
| Proposed by | Contact |
| Supreme Court of California | Heather Anderson, 415-865-7691 heather.anderson@jud.ca.gov |

Executive Summary

The California Supreme Court seeks comments on whether to adopt a rule of court providing that certain information about and at the request of applicants who have taken the California bar examination and other information that is necessary for law school compliance with accreditation or regulatory requirements may continue to be released by the State Bar of California.

Background

In 2015, the Legislature enacted Business and Professions Code section 6060.25, which prohibits disclosure of information identifying applicants seeking licensure as attorneys in California. The enactment of this legislation created uncertainty about whether the State Bar of California could continue to publish the names of applicants who passed the California bar examination and share information that the State Bar had previously regularly provided (1) to other jurisdictions at the request of applicants; (2) to law schools for their compliance with accreditation or regulatory requirements; and (3) to the National Conference of Bar Examiners in connection with the bar's administration of examinations. This year, language to clarify that Business & Professions Code section 6060.25 does not prevent the State Bar from providing this information was included in

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both the Assembly and Senate bills to authorize the State Bar fees.¹ Unfortunately, this language did not get enacted because no State Bar fee bill was passed.

Under the California Constitution, the Supreme Court bears the ultimate responsibility and authority for determining the issue of admission to the practice of law in this state (*In re Garcia* (2014) 58 Cal.4th 440, 451.) Under this inherent authority, the Supreme Court has adopted the rules in title 9 of the California Rules of Court, which address attorney admission and disciplinary proceedings (Cal. Rules of Court, rule 9.2). The proposed new rule is intended to facilitate the ability of applicants to demonstrate they qualify for licensure and to ensure proper functioning of the admissions process.

Proposal

The Supreme Court is proposing to add new rule 9.8 to title 9 of the California Rules of Court to provide that the State Bar of California may release certain information about and at the request of applicants who have taken the California bar examination, other information necessary for law school compliance with accreditation or regulatory requirements, and information to the National Conference of Bar Examiners in connection with the State Bar's administration of examinations. The language of this proposed rule is consistent with the language that was included by the Assembly and Senate in the 2016 State Bar fee bills.

¹ Assembly Bill No. 2878 (2015-2016 Reg. Sess.) and Senate Bill No. 846 (2015-2016 Reg. Sess).

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Rules 9.8 would be adopted, effective November 16, 2016, to read:

1 **Title 9. Rules on Law Practice, Attorneys, and Judges**

2
3 **Division 2. Attorney Admission and Disciplinary Proceedings and Review of State**
4 **Bar Proceedings**

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6 **Rule 9.8. Attorney Admissions: Disclosure of Applicant and Examination**
7 **Information**

8
9 **(a) Non-prohibited disclosures**

10
11 Notwithstanding Business and Professions Code section 6060.25, disclosure by the
12 State Bar of any of the following information is not prohibited:

- 13
14 (1) The names of applicants who have passed any examination administered,
15 given, or prescribed by the Committee of Bar Examiners.
- 16
17 (2) Information that is provided at the request of an applicant to another
18 jurisdiction or entity where the applicant is seeking admission to the practice
19 of law.
- 20
21 (3) Information provided to a law school that is necessary for the purpose of the
22 law school's compliance with accreditation or regulatory requirements.
- 23
24 (4) Information provided to the National Conference of Bar Examiners or a
25 successor organization in connection with the State Bar's administration of
26 any examination.

27
28 **(b) Disclosure under (a) not waiver of exemption**

29
30 Disclosure of any of the information set forth in subdivision (a) shall not constitute
31 a waiver of the exemption from disclosure under Section 6254.5 of the Government
32 Code.