

TITLE 2. RIGHTS AND RESPONSIBILITIES OF MEMBERS

Adopted July 2007

DIVISION 2. ANNUAL MEMBERSHIP FEES AND PENALTIES

Rule 2.10 Definitions

- (A) “Annual membership fees” are those fees that any member must pay to maintain active or inactive membership in a calendar year. These fees may include additional assessments and costs prescribed by law.¹
- (B) “Penalties” are the surcharges assessed any member who fails to pay annual membership fees on time.

Rule 2.10 adopted effective June 17, 2006.

Rule 2.11 Due date

A member must pay the annual membership fees set forth in the Schedule of Charges and Deadlines each calendar year no later than February 1.

Rule 2.11 adopted effective June 17, 2006.

Rule 2.12 New members

A new member must be enrolled as active and pay initial fees within forty-five days of the invoice date for the fees as follows:

- (A) full annual membership fees if admitted between January 1 and May 31;
- (B) half the annual membership fees if admitted between June 1 and November 30;
- (C) the administrative fee for admission set forth in the Schedule of Charges and Deadlines if admitted in December.

Rule 2.12 adopted effective June 17, 2006; amended effective July 20, 2007.

Rule 2.13 Late payment penalties

Late payment of annual membership fees is subject to the penalties set forth in the Schedule of Charges and Deadlines.

Rule 2.13 adopted effective June 17, 2006.

¹ Business & Professions Code §§ 6140.5, 6140.7.

Rule 2.14 No refund

Unless these rules provide otherwise, a member is not entitled to a refund of annual membership fees because of death, resignation, disbarment, transfer to inactive status, entering judicial office, or for any other reason.

Rule 2.14 adopted effective June 17, 2006.

Rule 2.15 Scaling

(A) An active member who has a total gross annual individual income from all sources of less than \$40,000 may request a 25% reduction of annual membership fees. The request must be submitted by the date set forth in the Schedule of Charges and Deadlines and include

- (1) the Active Member Fee Scaling Declaration signed under penalty of perjury; and
- (2) payment of the reduced fee.

New members admitted after May 31 do not qualify for scaling.

(B) An employer that receives State Bar Legal Services Trust Fund grants and is a qualified legal services project or qualified support center as defined by statute² may request a reduction of annual membership fees by 25% for an active member employed on a continuous full-time basis or an active member employed on at least a half-time basis who has no income from other employment related to the practice of law. The request must be submitted by the date set forth in the Schedule of Charges and of Deadlines and include

- (1) the Qualified Employer Fee Scaling Declaration signed under penalty of perjury that the employer is qualified and pays annual membership fees on the member's behalf; and
- (2) payment of the reduced fee.

(C) Members who scale are subject to audit and upon request must provide the State Bar with past federal and state income tax returns or other acceptable documentation of financial condition.

(D) If the State Bar determines that a member is ineligible to scale, the member must pay full annual membership fees and any late payment penalties.

Rule 2.15 adopted effective June 17, 2006; amended effective July 20, 2007; amended effective November 15, 2013.

² Business & Professions Code § 6210 et seq.

Rule 2.16 Waivers

- (A) In this rule, “annual membership fees” and “penalties” are construed narrowly and do not include
- (1) disciplinary costs³ or monetary sanctions,⁴
 - (2) Client Security Fund disbursements and costs,⁵
 - (3) mandatory fee arbitration award penalties and costs,⁶
 - (4) Minimum Continuing Legal Education (“MCLE”) noncompliance or reinstatement penalties, or
 - (5) any other charges that may be added to annual membership fees for failure to comply with obligations imposed by court order, statute, or rule.
- (B) To be considered for the current year, a request must be submitted by February 1. Requests submitted after February 1 must be accompanied by full payment of any outstanding charges, which will be refunded if the request is granted.
- (C) The Secretary may waive up to \$1,000 in annual membership fees and related penalties for the year in which they are due, provided that the request is
- (1) in writing;
 - (2) supported by satisfactory documentation; and
 - (3) for any of the following reasons:
 - (a) the member serves full-time as a magistrate, commissioner, or referee for a state or federal court of record;
 - (b) the member is a retired judge who accepts assignments from the Chief Justice of California to act in a judicial capacity at least 90% of the calendar year; or
 - (c) the member has a total gross annual household income from all sources of \$20,000 or less, in which case the waiver is 50% of annual membership fees.

³ Business and Professions Code § 6086.10.

⁴ Business and Professions Code § 6086.13.

⁵ Business and Professions Code § 6140.5.

⁶ Business and Professions Code § 6203(d)(3).

- (D) The Secretary may waive annual membership fees and related penalties for a member serving in the Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, or the Coast Guard Reserve provided that
- (1) the member has been ordered to report to full-time active duty for more than thirty days;
 - (2) a request for waiver is submitted in writing by the member, member's spouse, relative, law partner or associate, or legal representative and accompanied by:
 - (a) a copy of the order to report for active duty, or
 - (b) a copy of the order to report for active duty and a certified declaration by a JAG officer that the member has served on active duty for more than thirty days.

A member granted a waiver under this rule must notify the State Bar within thirty days upon termination of the assignment to active duty.

- (E) Annual membership fees are waived for the year in which a judicial officer leaves office and returns to membership in the State Bar.
- (F) Annual membership fees are waived for inactive members who are 70 years of age on February 1.
- (G) Annual membership fees may be waived for a member who is enrolled in the Pro Bono Practice Program.⁷
- (H) The board reserves the right for good cause
- (1) to grant requests for waivers denied by the Secretary; and
 - (2) to consider all other requests for waivers.
- (I) A waiver granted under this rule does not remove a court-ordered suspension for nonpayment of fees or penalties.

Rule 2.16 adopted effective June 17, 2006; amended effective July 20, 2007; amended effective July 17, 2009; amended effective July 22, 2011; amended effective March 2, 2012; amended effective July 20, 2012.

Rule 2.17 Keller deductions and challenges

⁷ See Rules 3.325-3.330

(A) *Keller v. State Bar of California* (1990) 496 U.S. 1 prohibits the State Bar from charging members for State Bar expenses for lobbying and certain other activities deemed political and ideological and unrelated to the Bar's permissible goals. California law authorizes members to take a deduction for lobbying activities.⁸ The Board of Trustees may also identify each year additional deductions that it deems to be outside the scope of *Keller*. The State Bar restricts its spending on lobbying and other activities it deems outside the scope of *Keller* to fees paid voluntarily by members not taking the deductions. The deductions and the Bar's most recent audited expenses charged to mandatory membership fees are published as a Statement of Expenditures of Mandatory Membership Fees on the State Bar Web site when the State Bar mails invoices for annual membership fees. Notice is also provided in the California Bar Journal and members may request a copy of the statement by mail.

(B) Members who believe that the annual Statement of Expenditures of Mandatory Membership Fees inappropriately includes an expenditure disallowed by Keller may object to the expenditure. The objection must be filed using the Challenge to Mandatory Membership Fees. The board may allow the objection or promptly refer it to arbitration. Filing an objection does not relieve a member of the obligation of paying the invoiced annual mandatory membership fees on time.

(C) For purposes of this rule, "arbitration" means that the State Bar will refer the challenge to an arbitrator selected by the American Arbitration Association. The State Bar may consolidate multiple challenges. The arbitration procedure is specified in the instructions to the Challenge to Mandatory Membership Fees.

(D) If an arbitrator determines that a challenged expense is outside the scope of Keller and is allowable as a deduction, the State Bar will refund the amount of the deduction to any public agency that has paid the amount on behalf of a member.

Rule 2.17 adopted effective July 20, 2007; amended effective January 1, 2012.

⁸ Business and Professions Code § 6140.05.