

D. Confidentiality

Business and Professions Code section 6086.1 provides, in essence, that the hearings and records of disciplinary proceedings in the State Bar Court are public following the filing of a notice to show cause or other initiating document.

On the other hand, Business and Professions Code section 6234 provides that any information provided to or obtained by the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, shall be absolutely confidential unless waived by the attorney and shall be exempt from the provisions of section 6086.1.

The proposed amendment to rule 805 of the Rules of Procedure, in the form attached hereto as Appendix D, would clarify that the pendency of the disciplinary proceeding against a Program participant and any pleadings or orders that are filed in the proceeding are public and available for public inspection but that any information regarding the participant's medical evaluation or treatment and any document that has been lodged, but not filed, with the State Bar Court shall be confidential and shall not be subject to public disclosure unless the participant waives confidentiality or the Court orders the document(s) to be filed.

Additionally, the proposed amendments would clarify that the parties' Stipulation as to Facts and Conclusions of Law and the Court's Decision Re Alternate Degrees of Discipline may be shared in confidence with the Office of Probation and with the Client Security Fund in order to facilitate the ability of those offices, respectively, to monitor the attorney's compliance with Pilot Program conditions and to process reimbursement applications submitted to CSF as a result of the attorney's admitted misconduct.

Finally, the proposed amendment would clarify the information that the Office of the Chief Trial Counsel may share with the complaining witness about the attorney's participation in the Pilot Program.