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CTAPP RULES AND REGULATIONS: WHAT EVERY CALIFORNIA LICENSED ATTORNEY NEEDS TO KNOW

CLIENT TRUST ACCOUNT PROTECTION PROGRAM (CTAPP)

California Rules of Professional Conduct and Related Statutes

Rule 1.4 Communications with Clients

Rule 1.15 Safekeeping Funds and other Property of Clients and Other Persons

B&P §6211 *et seq* IOLTA Enabling Statutes

Rule of Court 9.8.5 Self Assessment for Compliance

Rule of the State Bar of California 2.5

Resources

calbar.ca.gov

2023 Handbook on Client Trust Accounting for California Attorneys (PDF)

Excerpt from the California Rules of Court

Rule 9.8.5 State Bar Client Trust Account Protection Program (Rule Approved by the Supreme Court, Effective January 1, 2023)

(a) Client trust account protection program requirements

The State Bar of California must establish and administer a Client Trust Account Protection Program for the protection of client funds held in trust by a licensee that facilitates the State Bar's detection and deterrence of client trust accounting misconduct.

(1) The State Bar must impose the following requirements under this program:

(A) Annual Trust Account Certification—All licensees must annually (1) report whether or not, at any time during the prior year, they were responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct and (2) if they were responsible, certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing client trust accounts and the safekeeping of funds entrusted by clients and others; and

(B) Annual Trust Account Registration—All licensees who were responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must, annually, register each and every trust account in which the licensee held such funds at any time during the prior year by identifying account numbers and financial institutions in a manner prescribed by the State Bar for such reporting that will securely maintain the information submitted.

(2) Among the other requirements the State Bar may impose under this program are the following:

(A) Annual Self-Assessment—All licensees who were responsible, at any time during the prior year, for a client trust account under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment on client trust accounting duties and practices;

(B) Compliance Review—If selected by the State Bar, a licensee must complete and submit to the State Bar a client trust accounting compliance review to be conducted by a certified public accountant at the licensee's expense; and

(C) Additional Actions—If selected by the State Bar, an additional action or actions based on the results of a compliance review may include an investigative audit, a notice of mandatory corrective action, and a referral for disciplinary action.

(b) Authorization for the Board of Trustees of the State Bar to adopt rules and regulations

The Board of Trustees of the State Bar is authorized to formulate and adopt such rules and regulations as it deems necessary and appropriate to comply with this rule, including a rule or regulation that defines a licensee who is responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct.

(c) Failure to comply with program

A licensee who fails to satisfy the requirements of this program must be enrolled as an inactive licensee of the State Bar under the rules to be adopted by the Board of Trustees of the State Bar. Inactive enrollment imposed for noncompliance with the requirements of this program is cumulative and does not preclude a disciplinary proceeding or other actions for violations of the State Bar Act, the Rules of Professional Conduct, or other applicable laws.

(d) Fees and penalties

The State Bar has the authority to set and collect appropriate fees and penalties.

The State Bar of California

Preview of Client Trust Account Annual Self-Assessment

Cal. Rules of Court, Rule 9.8.5(a)(3)

NOTE: These questions are for reference only. Please complete the actual self-assessment beginning December 1, 2022, in My State Bar Profile.

Client trust account rules are designed to protect client interests and ensure that attorneys fulfill their fiduciary and ethical obligations to clients. This annual self-assessment is designed to highlight key elements of those rules and support attorneys in meeting their client trust account responsibilities. The following self-assessment is a series of "yes" or "no" responses, with references to corresponding authorities and sources of information for context. If you are a subordinate attorney in a firm with some but not all of the responsibilities for complying with rule 1.15 of the Rules of Professional Conduct, then one or more of your responses to this self-assessment may be provided based on information you have received from a supervising attorney (see rules 5.1 and 5.2 of the Rules of Professional Conduct).

1. I affirm that any funds held in a California IOLTA account are maintained in an IOLTA-eligible institution identified on the State Bar of California's website.

   California Business and Professions Code sections 6091.2, 6211, 6212, and 6213
   State Bar Rules, Title 2, Division 5, Chapter 1, rules 2.100, 2.110 and 2.117

   Yes | No

2. I affirm that the registration of client trust account information is updated annually in the manner prescribed by the State Bar.

   State Bar Rules, Title 2, Division 1, rule 2.2(B)(8) and (C)
   State Bar Rules, Title 2, Division 5, rule 2.114
   2023 Handbook on Client Trust Accounting for California Attorneys, footnote 2

   Yes | No

3. I affirm that all client funds or funds entrusted by others to me or to my firm or organization under the provisions of rule 1.15 of the Rules of Professional Conduct are held in one or more accounts labeled as a "Trust Account," or similar designation, and are maintained separate from any accounts held by me, by other individual attorneys in my firm/organization, or by the firm/organization that primarily hold personal or business funds.

PREVIEW OF SELF-ASSESSMENT

Business and Professions Code sections 6210 et seq.
Rule of Professional Conduct 1.15(a) and (c)

Yes | No

4. For each client trust account maintained by me or my firm, I affirm that the following records are maintained:
   - Client Ledger
   - Account Journal
   - Bank Statements
   - Canceled Checks

   Rule of Professional Conduct 1.15(d)(3)
   Recordkeeping standards adopted by the Board of Trustees pursuant to Rule of Professional Conduct 1.15(e)
   2023 Handbook on Client Trust Accounting for California Attorneys, Sections VII-VIII

   Yes | No

5. I affirm that a written, monthly reconciliation of the bank statement, client ledger, and account journal are completed and maintained for each client trust account.

   Rule of Professional Conduct 1.15(d) and (e)
   Recordkeeping standards adopted by the Board of Trustees pursuant to Rule of Professional Conduct 1.15(e)
   2023 Handbook on Client Trust Accounting for California Attorneys, Section VIII

   Yes | No

6. I affirm that timely reports are provided to clients or other persons accounting for funds, securities, or other property held in their name, including deposits, withdrawals, and other transactions.
   Rule of Professional Conduct 1.15(d)(4)

   Yes | No

7. If a fee agreement involves advances for costs, expenses, or fees, such funds are held in a client trust account prior to being expensed or earned, unless subject to an exception.

   Rule of Professional Conduct 1.15(a), (b), and (c); Comment [2]

   Yes | No

PREVIEW OF SELF-ASSESSMENT

8. I affirm that fees are withdrawn from client trust accounts at the earliest reasonable time once the fees, or a portion thereof, become fixed and earned.

   Rule of Professional Conduct 1.15(c)(2)

   Yes | No

9. I affirm that in 2022, clients or other persons with an interest in funds, securities, or other property received are promptly notified about the receipt of the funds, securities, or other property, and I affirm that, effective January 1, 2023, absent good cause, clients or other persons with an interest in the funds, securities, or other property received are notified about the receipt of the funds, securities, or other property no later than 14 days after receipt.

   Rule of Professional Conduct 1.15(d)(1)

   Yes | No

10. I affirm that client funds are NOT used to pay for bank charges or service fees and sufficient funds belonging to me or the law firm are deposited in the client trust account for this purpose or other steps are taken so client funds are not used to pay for bank charges.

    Rule of Professional Conduct 1.15(c)(1)

    Yes | No

11. If a dispute arises as to rights to any funds I hold in trust for clients, I affirm that the disputed portion of these funds are not withdrawn until the dispute is resolved.

    Rule of Professional Conduct 1.15(c)(2)

    Yes | No

12. I affirm that policies and procedures, such as training and supervision practices, are in place and are followed to ensure that client trust accounts are managed consistent with the California Rules of Professional Conduct.

    Rule of Professional Conduct 1.15
    2023 Handbook on Client Trust Accounting for California Attorneys.
    In the Matter of Respondent E (Rev. Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
    Palomo v. State Bar (1984) 36 Cal.3d 785.

    Yes | No

PREVIEW OF SELF-ASSESSMENT

Rule 2.5 Client Trust Account Protection Program Annual Reporting, Account Registration and Self-Assessment Completion Requirements (Rule Adopted by the Board of Trustees, Effective January 1, 2023)

As authorized by California Rule of Court, rule 9.8.5, a licensee must comply with certain annual reporting requirements under the Client Trust Account Protection Program (CTAPP).

(A) Definitions

(1) A licensee "responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct" is:

(a) a licensee who: (i) represents a client in a matter in which funds have been received by the licensee or licensee's firm on behalf of the client during the reportable time period; and (ii) has responsibility for complying with any of the requirements or prohibitions in rule 1.15 of the Rules of Professional Conduct— such requirements and prohibitions are not limited to recordkeeping duties and include, for example, the responsibility for giving notice to the client that funds were received on behalf of the client under rule 1.15(d)(1) of the Rules of Professional Conduct; or

(b) a licensee who acted as a signatory on a trust account or a licensee who exercised managerial or primary administrative oversight for a trust account.

(2) A "trust account" is the bank account or accounts opened to comply with rule 1.15(a) of the Rules of Professional Conduct and includes: (a) an IOLTA account under Business and Professions Code section 6211, subdivision (a) where the interest is paid to the State Bar; and (b) any interest bearing bank trust deposit accounts, or dividend-paying trust investment accounts established under Business and Professions Code section 6211, subdivision (b) where the interest is payable to a client.

(3) An "annual self-assessment" is a survey about client trust accounting duties and practices and includes, but is not limited to, questions and affirmations regarding a licensee's trust account recordkeeping under rule 1.15(d)(3) of the Rules of Professional Conduct and the recordkeeping standards adopted by the Board under rule 1.15(e) of the Rules of Professional Conduct.

(4) A "firm" means a law partnership; a professional law corporation; a lawyer acting as a sole proprietorship; an association authorized to practice law; or lawyers employed in a legal services organization or in the legal department, division or office of a corporation, of a government organization, or of another organization.

(5) The "reportable time period" for the information to be annually reported under paragraph (B) of this rule is the calendar year immediately preceding a licensee's due date for paying their annual license fees under Title 2, Division 2, rule 2.11 of the State Bar Rules.

(B) CTAPP Reporting Requirements

Unless a licensee is exempt under paragraph (K), a licensee must annually comply with the following reporting requirements:

(1) Annual Trust Account Certification—A licensee must annually (a) report whether or not, at any time during the reportable time period, they were a licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct and (b) if they were a licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, then those licensees must also certify that they are knowledgeable about, and in compliance with, applicable rules and statutes governing a trust account and the safekeeping of funds entrusted by clients and others;

(2) Annual Trust Account Registration—A licensee who was responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must, annually, register each and every trust account in which the licensee held such funds at any time during the reportable time period by identifying account numbers and financial institutions in a manner prescribed by the State Bar for such reporting. A licensee will be considered in compliance with this subparagraph if the licensee's firm submits account registration information on behalf of one or more licensees affiliated with the firm that identifies the licensee as one on whose behalf the registration information is submitted; and

(3) Annual Self-Assessment—A licensee responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must complete an annual self-assessment and report the completion of the self-assessment in a manner prescribed by the State Bar for such reporting.

(C) CTAPP Reporting Deadline

The deadline for submitting the information to be annually reported under paragraph (B) of this rule is the licensee's due date for paying their annual license fees under Title 2, Division 2, rule 2.11 of the State Bar Rules.

(D) CTAPP Reporting Required Even if a Licensee is Not Responsible for Trust Funds at the Time of Reporting

The annual reports required under paragraph (B)(1) and paragraph (B)(3) of this rule must be submitted when a licensee, at any time during the reportable time period, has been a licensee responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct, and this includes circumstances where the licensee at the time of submitting their report is no longer responsible for client funds or funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct. The registration of a trust account under paragraph (B)(2) of this rule also is required even if a licensee is not responsible for funds held in the trust account at the time of reporting so long as the licensee remains in practice with the firm that controls the trust account. A licensee is not required to register a trust account controlled by a firm with which the licensee no longer practices.

(E) Reporting that is Required by a Licensee Who is Not Responsible for Client Funds and Funds Entrusted by Others under the Provisions of Rule 1.15 of the Rules of Professional Conduct

Under paragraph (B)(1), a licensee who is not exempt under paragraph (K) must report whether or not, at any time during the reportable time period, they were a licensee who was responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct. To comply with paragraph (B)(1), a licensee who was not responsible for client funds and funds entrusted by others under the provisions of rule 1.15 of the Rules of Professional Conduct must submit a report indicating that fact.

(F) Noncompliance

Noncompliance with the requirements of this rule is failure to:

(1) complete annual trust account certification, registration, or self-assessment requirements under paragraph (B); or

(2) pay fees for noncompliance.

(G) Notice of CTAPP Reporting Noncompliance

A licensee who is sent a notice of noncompliance with any reporting required by this rule must comply as instructed in the notice or be involuntarily enrolled as inactive. An inactive licensee is not eligible to practice law.

(H) Enrollment as Inactive for Noncompliance

A licensee who fails to comply with a notice of CTAPP reporting noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

(I) Reinstatement Following Noncompliance

Enrollment as inactive for CTAPP reporting noncompliance terminates when a licensee submits proof of compliance and pays noncompliance and reinstatement fees.

(J) Fees for Noncompliance

Fees for noncompliance with any of the requirements in paragraph (B), including a reinstatement fee to terminate CTAPP inactive enrollment, are set forth in the Schedule of Charges and Deadlines.

(K) Licensees Who are Exempt from Compliance with this Rule

The following category of licensees are exempt from compliance with the reporting requirements in paragraph (B):

(1) A licensee who was not on active status for the entirety of the reportable time period; or

(2) A licensee who is not entitled to practice law at the time of the reporting deadline for any reason other than voluntary inactive enrollment.