

SUPREME COURT  
FILED

MAY 23 2018

Jorge Navarrete Clerk

S247914

ADMINISTRATIVE ORDER 2018-05-23

**IN THE SUPREME COURT OF CALIFORNIA**

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ORDER ADOPTING RULE 9.9.5 OF THE CALIFORNIA RULES OF COURT  
GOVERNING ATTORNEY FINGERPRINTING BY  
THE STATE BAR OF CALIFORNIA

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The adoption of California Rules of Court, rule 9.9.5, is approved, effective June 1, 2018. The text of rule 9.9.5 is attached hereto.

\_\_\_\_\_  
Cantil-Sakauye  
*Chief Justice*

\_\_\_\_\_  
Chin  
*Associate Justice*

\_\_\_\_\_  
Corrigan  
*Associate Justice*

\_\_\_\_\_  
Liu  
*Associate Justice*

\_\_\_\_\_  
Cuéllar  
*Associate Justice*

\_\_\_\_\_  
Kruger  
*Associate Justice*

\_\_\_\_\_  
*Associate Justice*

1 **Rule 9.9.5. Attorney Fingerprinting**

2  
3 **(a) Subsequent arrest notification**

4  
5 (1) The State Bar must enter into a contract with the California Department of  
6 Justice for subsequent arrest notification services for attorneys whose license  
7 is on active status with the State Bar (“active licensed attorneys”) and  
8 attorneys permitted to practice in the State of California pursuant to rules  
9 9.44, 9.45, and 9.46 of the California Rules of Court (“special admissions  
10 attorneys”).

11  
12 (2) The State Bar must consider those active licensed attorneys and special  
13 admissions attorneys for whom it is already receiving subsequent arrest  
14 notification services as having satisfied the fingerprinting requirement of this  
15 rule and thereby exempt. The State Bar must adopt a procedure for  
16 notification of all attorneys as to whether they have been deemed to have  
17 already satisfied the requirement.

18  
19 **(b) Active licensed attorneys**

20  
21 Each active licensed attorney, with the exception of those attorneys specifically  
22 exempt under (a)(2) of this rule, must, pursuant to the procedure identified by the  
23 State Bar, be fingerprinted for the purpose of obtaining criminal offender record  
24 information regarding state and federal level convictions and arrests from the  
25 Department of Justice and the Federal Bureau of Investigation. These fingerprints  
26 will be retained by the Department of Justice for the limited purpose of subsequent  
27 arrest notification.

28  
29 **(c) Inactive licensed attorneys**

30  
31 An attorney whose license is on inactive status with the State Bar (“inactive  
32 licensed attorneys”), with the exception of those attorneys specifically exempt  
33 under (a)(2) of this rule, must, pursuant to the procedure identified by the State Bar,  
34 be fingerprinted prior to being placed on active status for the purposes described in  
35 (b) of this rule.

36  
37 **(d) Active licensed attorneys in foreign countries**

38  
39 Active licensed attorneys who are residing outside the United States and required to  
40 submit fingerprints under this rule should have their fingerprints taken by a  
41 licensed fingerprinting service agency and submit the hard copy fingerprint card to  
42 the State Bar. If fingerprinting services are not provided in the jurisdiction where  
43 the attorney is physically located, or the attorney is able to provide evidence that

1 he/she is unable to access or afford such services, the attorney must notify the State  
2 Bar pursuant to the procedure identified by the State Bar. The attorney will be  
3 exempt from providing fingerprints until he or she returns to the United States for a  
4 period of not less than 60 days.

5  
6 **(e) Special admissions attorneys**

7  
8 Attorneys permitted to practice in the State of California pursuant to rules 9.44,  
9 9.45, and 9.46 of the California Rules of Court, with the exception of those  
10 attorneys specifically exempt under (a)(2) of this rule, must, pursuant to the  
11 procedure identified by the State Bar, be fingerprinted for the purpose of obtaining  
12 criminal offender record information regarding state and federal level convictions  
13 and arrests from the Department of Justice and the Federal Bureau of Investigation.  
14 These fingerprints will be retained by the Department of Justice for the limited  
15 purpose of subsequent arrest notification.

16  
17 **(f) Implementation schedule and penalty for noncompliance**

18  
19 (1) The State Bar must develop a schedule for implementation that requires all  
20 attorneys subject to fingerprinting under (b) of this rule to be fingerprinted by  
21 December 1, 2019. The State Bar must develop a schedule for  
22 implementation that requires all special admissions attorneys subject to  
23 fingerprinting under (e) of this rule to be fingerprinted by the renewal of their  
24 application to practice law in the State of California.

25  
26 (2) The State Bar has ongoing authority to require submission of fingerprints  
27 after December 1, 2019 for attorneys for whom it is not receiving subsequent  
28 arrest notification services and for attorneys transferring to active status.  
29 Failure to be fingerprinted if required by this rule may result in involuntary  
30 inactive enrollment pursuant to Business and Professions Code section 6054,  
31 subdivision (d).

32  
33 (3) The State Bar has ongoing authority to require submission of fingerprints  
34 after December 1, 2019, for special admissions attorneys for whom it is not  
35 receiving subsequent arrest notification services. Failure to be fingerprinted  
36 if required may result in a State Bar determination that the attorney cease  
37 providing legal services in California.

38  
39 **(g) Information obtained by fingerprint submission; disclosure limitations**

40  
41 Any information obtained by the State Bar as a result of fingerprint submission  
42 under this rule must be kept confidential and used solely for State Bar licensing and  
43 regulatory purposes.

1  
2 **(h) Fingerprint submission and processing costs**  
3

- 4 (1) Except as described in (h)(2), all costs incurred for the processing of  
5 fingerprints for the State Bar, including print furnishing and encoding, as  
6 required by Business and Professions Code section 6054, must be borne by  
7 the licensed attorney or special admissions attorney.  
8  
9 (2) The State Bar must develop procedures for granting waivers of the processing  
10 costs of running Department of Justice and Federal Bureau of Investigation  
11 background checks for licensed attorneys with demonstrable financial  
12 hardship.  
13

14 **(i) Attorneys who are physically unable to be fingerprinted**  
15

- 16 (1) If the Department of Justice makes a determination pursuant to Penal Code  
17 section 11105.7 that any attorney required to be fingerprinted under this rule  
18 is presently unable to provide legible fingerprints, the attorney will be  
19 deemed to have complied with the fingerprinting requirements of this rule.  
20  
21 (2) Attorneys required to be fingerprinted under this rule may also submit  
22 notification to the State Bar that they are unable to submit fingerprints due to  
23 disability, illness, accident, or other circumstances beyond their control. The  
24 State Bar must evaluate the notification and may require additional evidence.  
25 If the State Bar determines that the attorney is unable to submit fingerprints  
26 based on the information provided, the attorney will be deemed to have  
27 complied with the fingerprinting requirements of this rule.  
28  
29 (3) A determination of deemed compliance under (i)(1) and (i)(2) will apply only  
30 to those attorneys who are unable to supply legible fingerprints due to  
31 disability, illness, accident, or other circumstances beyond their control and  
32 will not apply to attorneys who are unable to provide fingerprints because of  
33 actions they have taken to avoid submitting their fingerprints.  
34  
35