

Oregon State Bar

2025

Client Security Fund Rules

Effective June 1, 2025

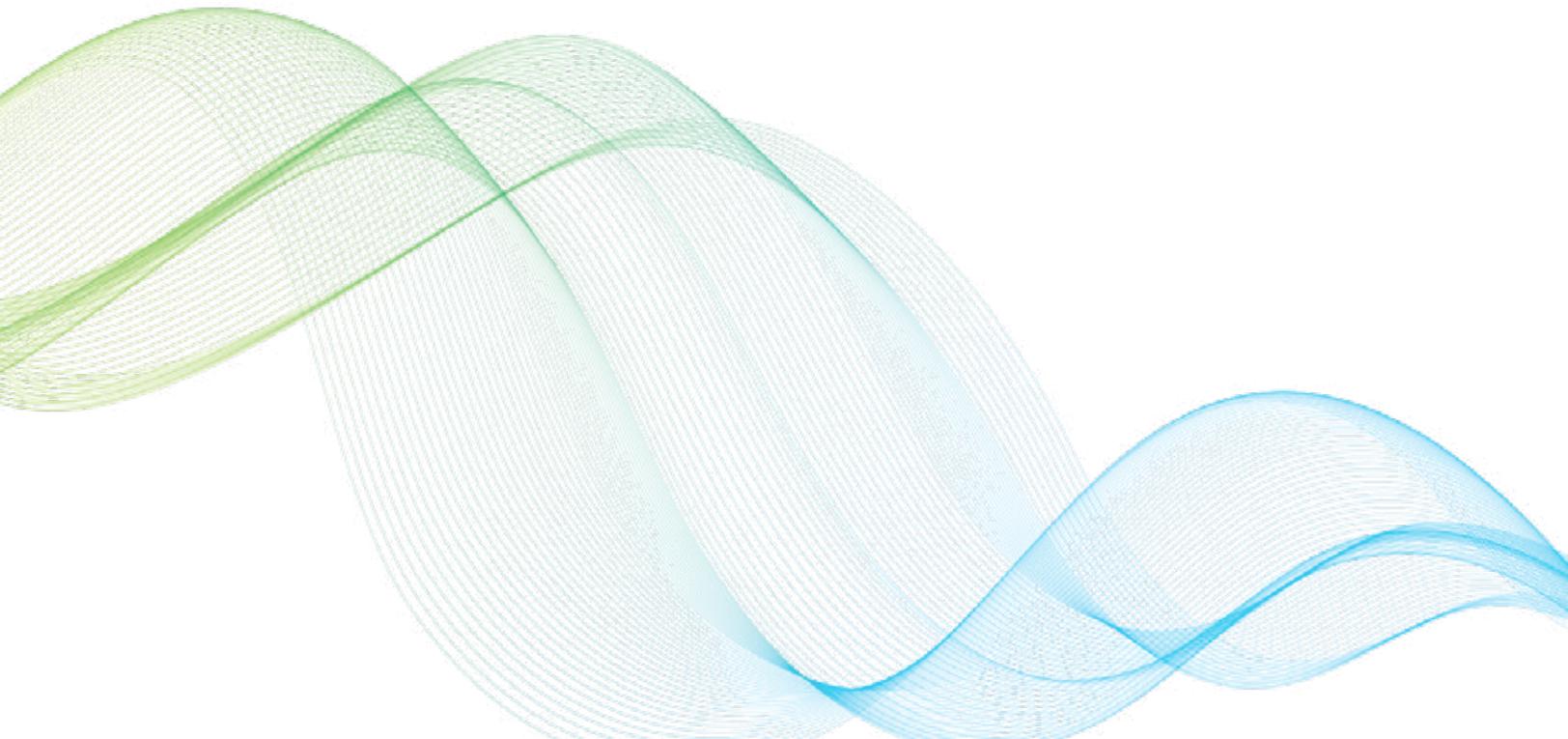


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Section 1 – General Provisions

1.1 Definitions

For the purpose of these Client Security Fund Rules, the following definitions shall apply:

- (1) “Administrator” means the OSB Chief Executive Officer (CEO), or other person designated by the CEO to oversee the operations of the Client Security Fund.
- (2) “Bar” means the Oregon State Bar.
- (3) “Claimant” means one who files a claim with the Fund.
- (4) “Client” means the individual, partnership, corporation, or other entity who, at the time of the act or acts complained of, had an established lawyer/LP-client relationship with the lawyer or LP.
- (5) “CSF” or “Fund” shall mean the Client Security Fund formed under by the Bar under ORS 9.625.
- (6) “Committee” means the Client Security Fund Committee.
- (7) “Dishonest conduct” has the meaning prescribed in CSF Rule 2.5.
- (8) “Lawyer” means the person named in a statement of claim as the attorney whose dishonest conduct caused the loss, and who, at the time of the act or acts complained of, was an active licensee of the Oregon State Bar.
- (9) “LP” means the person named in a statement of claim as the licensed paralegal whose dishonest conduct caused the loss, and who, at the time of the act or acts complained of, was an active licensee of the Oregon State Bar.
- (10) “Statement of Claim” means the form designated by the administrator pursuant to CSF Rule 3.1.

1.2 Authority

The Bar’s Board of Governors delegates its authority under ORS 9.655 and ORS 9.665 to the Committee to investigate, review, and act on a claim. The Committee and its members are deemed to be representatives of the Board of Governors.

1.3 Rules

These Rules shall be known as the Client Security Fund Rules, or Rules. These Rules shall go into effect upon approval by the Bar’s Board of Governors.

1.4 Discretionary Fund

Per ORS 9.665, awards from the Fund are discretionary. The Committee or the Board of Governors may deny claims in whole or in part for any reason.

1.5 Application

These Rules apply to all claims pending at the time of their enactment.

1.6 Reporting

The administrator shall prepare an annual report to Bar licensees. The annual report shall include the name of the lawyer or LP, the amount of the award, the general nature of the claim, the lawyer's status with the Bar, and whether any criminal action has been instituted against the lawyer or LP for the conduct giving rise to the loss. If the claimant has previously initiated criminal or civil action against the lawyer or LP, the annual report may also include the claimant's name. The annual report may also include general information about the Fund, what claims are eligible for reimbursement, how the Fund is financed, and who to contact for information.

1.7 Amendment

These Rules may be amended by a majority vote of the entire membership of the Committee, subject to approval by the Board of Governors of the Bar.

Section 2 – Reimbursable Losses

2.1 Eligibility

A loss of money or other property of a lawyer's or LP's client is eligible for reimbursement if such loss complies with all the provisions of this Section.

2.2 Claimant

The claim must be made by the injured client or the client's conservator, personal representative, guardian ad litem, trustee, or attorney in fact.

2.3 Timeliness

The statement of claim must have been filed with the Bar within two years after the latest of the following:

- (1) the date of the lawyer's or LP's conviction;
- (2) in the case of a claim of loss of \$5,000 or less, the date of the lawyer's or LP's disbarment, suspension, reprimand, or resignation from the Bar;
- (3) the date a judgment is obtained against the lawyer or LP; or
- (4) the date the claimant knew or should have known, in the exercise of reasonable diligence, of the loss.

Absent a waiver by the Committee per Rule 3.4, the Committee shall not approve a claim for reimbursement if the statement of claim is submitted more than six years after the date of the loss.

2.4 Jurisdiction of Practice

The loss must have arisen from the lawyer's or LP's practice of law in Oregon. In determining whether the loss arose from the lawyer's or LP's practice of law in Oregon, the Committee may consider all relevant factors including the parties' domiciles, the location of the lawyer's or LP's office, the location where the lawyer-client/LP-client relationship was formed, and the location where legal services were rendered.

2.5 Dishonest Conduct

The loss must have been caused by the lawyer's or LP's dishonest conduct. For purposes of this rule, dishonest conduct includes:

- (1) a lawyer's or LP's willful act against a client's interest by defalcation, embezzlement, or other wrongful taking;
- (2) a lawyer's or LP's misrepresentation or false promise to provide legal services to a client in exchange for the advance payment of a legal fee;
- (3) failure to refund unearned fees received in advance as required by Rule of Professional Conduct 1.16(d) regardless of whether a fee agreement termed the advance as earned on receipt;
- (4) the borrowing of money from a client without intention to repay it, with disregard of the lawyer's or LP's inability or reasonably anticipated inability to repay it; or
- (5) a lawyer's or LP's failure to deposit and maintain an advance payment in a lawyer/LP trust account as required by the Rules of Professional Conduct.

A lawyer's or LP's failure to perform or complete a legal engagement does not constitute, in itself, evidence of misrepresentation, false promise, or dishonest conduct.

2.6 Coverage

The loss is not covered by any similar fund in another state or jurisdiction, or by a bond, surety agreement or insurance contract, including losses to which any bonding agent, surety or insurer is subrogated.

2.7 Financial Institution

The loss is not incurred by a financial institution covered by a "banker's blanket bond" or similar insurance or surety contract.

2.8 Lawyer-Client Relationship

The loss is from and was because of an established lawyer/LP-client relationship; or the failure to account for money or property entrusted to the lawyer or LP in connection with the lawyer's or LP's practice of law or while acting as a fiduciary in a matter related to the lawyer's or LP's practice of law.

2.9 Resultant Act

To qualify for reimbursement, one of the following resultant acts must have also occurred in relation to the dishonest conduct.

- (1) The lawyer or LP must have been found guilty of a crime as a result of the dishonest conduct.
- (2) A civil judgment was entered against the lawyer or LP as a result of the dishonest conduct, which remains unsatisfied.
- (3) The claimant holds an allowed claim against the lawyer's or LP's probate or bankruptcy estate as a result of the dishonest conduct, which remains unsatisfied.
- (4) In the case of a claimed loss of \$5,000 or less, the lawyer or LP was disbarred, suspended, or reprimanded in disciplinary proceedings in part, as a result of the dishonest conduct that caused the claimed loss; or the lawyer or LP resigned from the Bar during the disciplinary investigation of the dishonest conduct that caused the claimed loss.

2.10 Good Faith Effort

The Claimant must have made a good faith effort to collect the loss claimed against the lawyer or LP, to no avail. The Committee may consider, but is not limited to, the following factors in determining whether the Claimant made a good faith effort to collect the loss.

- (1) Whether either party has attempted to resolve the dispute by informal means, such as negotiations, or voluntary participation in the Oregon State Bar Fee Dispute Resolution Program.
- (2) Whether there are significant barriers to the Claimant's access to the civil justice system to recover a loss, including the Claimant's access to another lawyer or LP, Claimant's familiarity with the legal system, Claimant's financial resources, and Claimant's proficiency with the English language.
- (3) Whether attempts to recover a loss would be more financially burdensome to a Claimant than the loss.
- (4) Any other additional factors that could discourage a Claimant from effective use of the civil justice system to recover the loss.

Section 3 – Limitations and Exceptions

3.1 Paid Legal Fees

Reimbursement of a loss claiming a legal fee paid to a lawyer or LP will be allowed only if

- (1) the lawyer or LP provided no legal services to the client in the engagement;
or
- (2) the legal services that the lawyer or LP actually provided were, in the Committee's judgment, minimal or insignificant; or
- (3) the claim is supported by a determination of a court, a fee arbitration panel, or an accounting or other evidence acceptable to the Committee that establishes that the client is owed a refund of a legal fee.

No award reimbursing a legal fee may exceed the actual fee that the client paid the lawyer or LP.

3.2 Expenses

A claim approved by the Committee may not include attorney's fees paid by the Claimant to recover the loss, interest on a judgment, prejudgment interest, any reimbursement of expenses of a claimant in attempting to make a recovery, or prevailing party costs authorized by statute, except that a claim may include the claimant's actual expense incurred for court costs, as awarded by the court.

3.3 Other Services Provided

If a Claimant is provided equivalent legal services by another lawyer or LP without cost to the client, the legal fee paid to the predecessor lawyer or LP will not be eligible for reimbursement, except if the Committee determines extraordinary circumstances warrant reimbursement.

3.4 Waiver

In cases of extreme hardship or special and unusual circumstances, the Committee may approve or recommend for payment a claim that would otherwise be denied due to noncompliance with one or more of the provisions in Section 2 of these rules. If the Committee deems a waiver is appropriate, it shall identify which provision has been waived, and the reason the Committee has waived such provision.

Section 4 – CSF Committee

4.1 Committee Members

The members and officers of the Committee will be appointed and discharged by the Bar’s Board of Governors pursuant to applicable provisions of the Bar Bylaws.

4.2 Meetings

The Committee shall meet at least four times each year upon the call of the chairperson. At the request of at least two members of the Committee and with reasonable notice, the chairperson shall promptly call a meeting of the Committee.

4.3 Public Meetings

The Committee’s meetings are public meetings within the meaning of Oregon’s public meetings law.

4.4 Quorum

The Committee may only act pursuant to the quorum provisions contained in Section 13.6 of the Bar Bylaws.

4.5 Public Records

Records of the Fund are public records within the meaning of Oregon’s public records law.

4.6 Committee Member Conflict

A member of the Committee who has or has had an attorney-client relationship or financial relationship with a claimant, lawyer, or LP who is the subject of a claim may not participate in the investigation or review of any claim involving the claimant, lawyer, or LP. A member who is subject to this provision shall disclose the nature of the relationship before the Committee begins consideration of such claim, and the member may not participate in the Committee’s discussion of the claim without leave of the chair.

Section 5 – Claims

5.1 Claim Submission

All claims for reimbursement must be submitted in a format designated by the administrator.

5.2 Statement of Claim.

The statement of claim must include, at a minimum, the following information:

- (1) The name and address of the lawyer or LP alleged to have engaged in dishonest conduct;
- (2) The amount of the alleged loss;
- (3) The date or period of time during which the alleged loss occurred;
- (4) A general statement of facts relative to the claim, including a statement regarding efforts to collect any judgment against the lawyer or LP;
- (5) The name and address of the claimant;
- (6) A verification of the claim by the claimant via declaration under oath; and
- (7) The name of the attorney, if any, who is assisting the claimant in presenting the claim to the Committee.

5.3 Disclosure Statement

The statement of claim must substantially contain the following statement: “ALL DECISIONS REGARDING PAYMENTS FROM THE CLIENT SECURITY FUND ARE DISCRETIONARY. Neither the Oregon State Bar nor the Client Security Fund are responsible for the acts of individual lawyers or LPs.”

5.4 Submission of Claims

All statements of claim must be submitted to Client Security Fund, Oregon State Bar, 16037 SW Upper Boones Ferry Rd., P. O. Box 1689, Tigard, Oregon 97281-1935 or via an email or webform designated by the administrator.

5.5 Rejection of Claim

The administrator may reject a claim that does not comply with the requirements of a Statement of Claim, and request that the claimant resubmit the Statement of Claim.

5.6 Represented Claimants

Licensees of the Bar are encouraged to assist claimants without charge in preparing and presenting a claim to the Fund. Nevertheless, a licensee of the Bar may contract with a claimant for a reasonable attorney fee, which contract must be disclosed to the Committee at the time the claim is filed or as soon thereafter as an attorney has been retained. The Committee may disapprove of an attorney fee that it finds to be unreasonable. No attorney shall charge a fee in excess of the amount the Committee has determined to be reasonable, and the attorney fee shall be paid from, and not in addition to the award. In determining a reasonable fee, the Committee may refer to factors set out in ORS 20.075.

5.7. Outreach

The Committee may request individual lawyers or LPs, bar associations, and other organizations of lawyers or LPs to assist the Committee in the investigation of Claims or to represent Claimants on a pro bono basis.

Section 6 – Claims Investigation

6.1 Assigning Investigations

The administrator shall assign each statement of claim to a member of the Committee for investigation and report to the Committee. The administrator shall send a copy of the statement of claim to the lawyer or LP who is the subject of the claim at the lawyer's or LP's last known address. Before assigning a statement of claim for investigation, the administrator may request of the claimant further information with respect to the claim.

6.2. Investigation

Committee members assigned a statement of claim for investigation shall investigate to determine whether the claim is for a reimbursable loss and is otherwise in compliance with these Rules. The Committee member may review available records and documents and conduct interviews of the claimant, the lawyer or LP, or others as the Committee member deems reasonably necessary to determine whether the Claimant is eligible for any reimbursement from the Fund. The Committee member may evaluate the credibility of their interviewees in their investigation and provide the basis of their evaluation in their investigative report.

6.3 Reports

Committee members assigned a claim for investigation shall submit an investigative report to the administrator within a reasonable time after the assignment of the claim to that member. The member shall include in such report a summary of their investigation, a discussion on whether the claim fits the criteria for payment under these Rules, and a recommendation on whether the claim should be completely reimbursed, partially reimbursed, or denied by the Committee.

Section 7 – Committee Review and Award

7.1 Consideration

The Committee may consider claims for which an investigation has been completed at any properly noticed meeting of the Committee. The Committee may award a claim, partially award a claim, deny a claim, or take other action as deemed necessary.

7.2 Statements of the Parties

The claimant, the claimant's attorney, the lawyer or LP or the lawyer's or LP's attorney may attend meetings of the Committee. At the discretion of the Chair, they may present their respective positions on a claim. The Chair may decline to allow such presentations, or request the claimant, claimant's attorney, lawyer or LP, or lawyer's or LP's attorney provide written statements to the Committee.

7.3 Award Review

No award may be made to any claimant from the Fund if the statement of claim has not been submitted and reviewed pursuant to these Rules and approved at a duly noticed meeting of the Committee.

7.4 Maximum Award

No award from the Fund, on any one claim arising from lawyer/LP misconduct which occurred before January 1, 2022, may exceed \$50,000. No award from the Fund, on any one claim arising from lawyer/LP misconduct which occurred on or after January 1, 2022, may exceed \$100,000. For the purposes of this rule, lawyer/LP misconduct arises on the earlier of:

- (1) The date that the lawyer/LP-client relationship is terminated;
- (2) The date that claimant demanded payment from the lawyer or LP;
- (3) The date that the lawyer or LP was disbarred or suspended; or
- (4) The date that the claimant knew of the lawyer or LP misconduct.

7.5 Findings

A finding of dishonest conduct by the Committee is for the sole purpose of resolving a claim and is not to be construed as a finding of misconduct for purposes of any other proceeding.

7.6 Providing Assistance

The Committee may provide information obtained by the Committee about a lawyer's conduct to any agency or entity that the Committee determines may be helpful in resolving the claimant's concerns.

Section 8 – Request for Review

8.1 Denial of Claim

The Committee's denial of a claim is final unless a Claimant's written request for review by the Board of Governors is received by the administrator within 20 days of the Committee's decision. The 20 days run from the date the Committee's decision is sent to the claimant by mail, exclusive of the date of mailing.

8.2. Review

Upon receipt of review, the claim will be placed on the Board of Governors' earliest available agenda for review at their next noticed meeting. The Board of Governors will receive the determination of the Committee, the investigative report, and the request for review from the Claimant. The Board of Governors may adopt the findings of the Committee, decline to adopt and award the claimant an amount from the Fund, refer the claim back to the Committee, or take other action the Board of Governors deems necessary.

8.3 Final Decision

The decision of the Board of Governors is final.

Section 9 – Payment of Awards

9.1 Approval of Award

The Committee shall determine the amount of loss, if any, for which any claimant may receive an award from the Fund. The Committee may give final approval to an award of less than or equal to \$10,000 and shall submit regular reports to the Board of Governors reflecting all awards finally approved by the Committee since the Board's last meeting.

9.2 Board of Governors Approval of Award

If the Committee determines that a claim should be approved in an amount more than \$10,000, the Committee must submit its recommendation to the Board of Governors for approval. When reviewing such claims, the Board of Governors shall conduct its review pursuant to the provisions of these rules. The Board of Governors may approve, partially approve, deny, refer a claim back to the Committee, or take any other necessary action for each claim.

9.3. Order of Payment

The Board of Governors may determine the order and payment of awards; may defer or pro-rate awards based on funds available in any calendar year; and may allow a further award in any subsequent year to a claimant who received only partial payment of an award. In exercising its discretion, the Board of Governors shall consider the following objectives:

- (1) Timely and complete payment of approved awards; and
- (2) Maintaining the integrity and stability of the Fund; and
- (3) Avoiding frequent or significant fluctuations in the member assessment.

Section 10 – Subrogation for Reimbursements Made

10.1 Assignment

As a condition of receiving an award, a claimant shall provide the Bar with a pro tanto assignment of the claimant's rights against the lawyer or LP, the lawyer's or LP's legal representative, estate, and assigns, and of the claimant's rights against any person or entity who may be liable for the claimant's loss. The assignment shall provide that if payment is made to the claimant and claimant fails to cooperate with the Bar as set forth in this Section, the Bar shall have the right to recover any payments made by the Bar to the claimant.

10.2 Receipt of Assignment

Upon receipt of such assignment, the following rules govern the relationship between the Bar and the claimant:

- (1) Upon commencement of an action by the Bar as subrogee or assignee of a claim, the administrator shall advise the claimant, who may then join in such action to recover the claimant's unreimbursed losses.
- (2) In the event that the claimant commences an action to recover unreimbursed losses against the lawyer, LP, or another person or entity who may be liable for the claimant's loss, the claimant shall notify the Bar of such action in writing, within 14 days of the commencement of such action.
- (3) The claimant shall cooperate in all efforts that the Bar undertakes to achieve restitution for the Fund.
- (4) The claimant shall not release the lawyer or LP from liability or otherwise impair the Bar's assignment of judgment or subrogated interest without the prior approval of the Board of Governors.

10.3 Discretion of Administrator

The administrator shall be responsible for collection of Fund receivables and shall have sole discretion to determine when such efforts would be futile. The administrator may undertake collection efforts directly or may assign subrogated claims to a collection agency or outside counsel. The administrator may authorize the expenditure of money from the Fund for reasonable costs and expenses of collection.

