

TITLE 10. INVESTMENT
CHAPTER 6. REAL ESTATE COMMISSIONER

ARTICLE 18.5. Substantial Relationship and Rehabilitation Criteria

Section 2915. Petitions for Removal of License Discipline Information from Department Internet ~~Posting~~ Posting.

(a) This section establishes the process and standards for a petition by a current licensee, as defined by section 10011 of the Code, seeking removal of license discipline information from the Department ~~Internet site~~ internet website (“the website”) for license discipline with an effective date more than ten (10) years prior, pursuant to section 10083.2 of the Code.

(b) A petitioner must submit the following information before the Department considers the petition complete:

(1) A list of petitioner’s criminal convictions since the date of the most recent Department imposed license discipline for which the petitioner seeks removal from the website, including information on the date of the court action and identifying the court and jurisdiction of where the conviction occurred.

(A) “Conviction” includes all state, commonwealth, possession, federal, military, and foreign convictions. “Conviction” includes a verdict of guilty by judge or jury, a plea of ~~guilty or guilty~~, of nolo ~~contendere~~ contendere, or of no contest. A petitioner must disclose all convictions whether the plea or verdict was set aside, the conviction against the petitioner was dismissed or expunged, or if the petitioner was pardoned.

(B) For the purposes of this petition process, “Conviction” does not include:

(i) Convictions for infractions.

(ii) Convictions under section 11357(b), (c), (d), or (e) of the Health and Safety Code, or under section 11360(b) of the Health and Safety Code, if more than two years have passed since the date of the conviction.

(2) A list of all petitioner's professional license discipline since the date that the Department imposed discipline, including the most recent license discipline action for which the petitioner seeks removal from the website. Disclosed license discipline must include surrender of a license whether or not an investigation was pending, whether in California or elsewhere. Each item on this list must include the date of discipline, the license type, and the jurisdiction in which the discipline was ordered.

(3) A list of all criminal, civil, or license discipline actions currently pending against petitioner, including the jurisdiction in which the action is pending.

(4) A signed attestation by the petitioner that petitioner certifies (or declares) under penalty of perjury under the laws of the State of California that the information provided as part of the petition is true and correct.

(c) A petitioner must submit all the following items before the Department considers the petition ~~complete~~ complete:

(1) A petitioner must submit the fee amount of \$1,275.00 with each petition. This petition fee is deemed earned by the Department upon receipt and not refundable. A petitioner may petition concurrently, when eligible, for reinstatement of a license, or for removal of restrictions from a license, without additional charge. A petitioner may request removal of more than one eligible discipline action from the website with a single petition, without additional charge.

(2) A petitioner, or a broker-officer of a corporate petitioner, who resides in California must submit a completed copy of a Live Scan Service Request, Form RE 237 (Rev. ~~6/14~~7/18), hereby incorporated by reference, completed not earlier than 30 days before the date of submission of the petition to the Department.

(d) Section 10083.2 of the Code requires the petitioner to provide evidence of rehabilitation to the Commissioner indicating the posting of discipline is no longer needed to prevent a credible risk to members of the public. A petitioner may provide with the petition copies of any documentary evidence that supports petitioner's claims regarding rehabilitation, including, but not limited to, documentation evidencing expungement of criminal convictions and documentation of completed restitution, if applicable.

(e) The criteria for rehabilitation set forth in section 2911 of these Regulations will apply where a petitioner seeks removal of discipline information from the Department's website stemming from a Statement of Issues or where petitioner's license discipline stems from an original application for a license. The criteria for rehabilitation set forth in section 2912 of these Regulations will apply where a petitioner seeks removal of discipline information from the Department's website stemming from an Accusation,

surrender of a license, or other discipline actions ordered by the Commissioner except for a Statement of Issues.

(f) In evaluating a petition, the Commissioner shall take into consideration other violations that present a credible risk to the members of the public since the posting of discipline requested for removal. The Commissioner ~~may~~ shall consider, when assessing the credible risk to members of the public utilizing licensed activity by the petitioner, any evidence gathered from an investigation that reflects on petitioner's propensity to honestly and fairly engage in activities requiring a real estate license. For purposes of this subsection, a "credible risk" may exist if any of the following ~~violations~~ circumstances apply:

- (1) Petitioner is currently registered pursuant to the provisions of section 290 of the Penal Code.
- (2) Petitioner is currently on probation or parole.
- (3) Petitioner's license is currently subject to restrictions, and a concurrent petition to remove those restrictions is not granted.
- (4) There is any professional license discipline on petitioner's Department record that is based on an offense that resulted in harm to a client or other consumer in a real estate transaction.
- (5) Petitioner does not make himself or herself reasonably available for interview by the Department investigator in the course of the petition investigation.
- (6) Petitioner has not reimbursed the Department for payments made from the Consumer Recovery Account associated with a claim filed wherein the petitioner was the judgment debtor.

(g) If the Commissioner grants the petition after investigation, the Commissioner will order removal of the eligible discipline item or items from the licensee's entry in the Public License Information feature on the website.

(h) If the Commissioner denies the petition for removal of discipline from the Public License Information website feature, the petitioner may not submit a new petition for a minimum of one year from the effective date of the denial.

Note: Authority cited: Sections 10080 and 10083.2, Business and Professions Code.
Reference: Section 10083.2, Business and Professions Code.