



## MORAL CHARACTER DETERMINATIONS STATEMENT AND GUIDELINES

### MISSION AND PURPOSE

The process for making a moral character determination for those seeking admission to the State Bar of California (State Bar) and a license to practice law shall be uniform, consistent with governing law, and transparent. The process shall adhere to best practices and ensure that appropriate consideration is given to rehabilitative efforts undertaken by applicants.

A review of whether an applicant is of good moral character is one of several parts of the process of establishing eligibility for admission to the practice of law in California. Applicants have the burden of establishing the requisite moral character by demonstrating possession of traits critical to the ethical practice of law, such as candor and honesty, and respect for the law and the rights of others.

### GOVERNING LAW

Section 6060 of the Business and Professions Code states:

To be certified to the Supreme Court for admission and a license to practice law, a person who has not been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency or in a foreign country shall:

- (a) . . .
- (b) (1) Be of good moral character.

Section 6062(a) of the Business and Professions Code states:

- (a) To be certified to the Supreme Court for admission, and a license to practice law, a person who has been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency the United States may hereafter acquire shall:

- (1) . . .
- (2) Be of good moral character.

A moral character determination is also required for applicants for the Multijurisdictional Practice program (Registered In-House Counsel (Cal. Rules of Court, rule 9.46(c)(2)));

Registered Legal Aid Attorney (Cal. Rules of Court, rule 9.45(c)(2)); and Registered Military Spouse Attorney (Cal. Rules of Court, rule 9.41.1(c)(4)) and for the Registered Foreign Legal Consultant program (Cal. Rules of Court, rule 9.44(c)(2)), referred to as “special admissions.”

Title 4, Division 1, Chapter 4, Rule 4.40 of the *Rules of the State Bar of California (Admissions Rules)* states:

- (A) An applicant must be of good moral character as determined by the State Bar. The applicant has the burden of establishing that he or she is of good moral character.
  
- (B) “Good moral character” includes but is not limited to qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the law, and respect for the rights of others and the judicial process.

Rule 4.41(A) of the *Admissions Rules* states with respect to an Application for Determination of Moral Character:

An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending or is otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.

## PROCESS

For those applying for admission to the practice of law, an Application for Determination of Moral Character (moral character application) must be completed after registering with the State Bar as a law student or an attorney applicant. The registration application is available on the State Bar’s website at <http://www.calbar.ca.gov/Admissions> or upon request from the Office of Admissions. Applicants are encouraged to file a moral character application at the beginning of the last year of law study or at least eight (8) to ten (10) months prior to the date they wish to be admitted to practice law in California.

For those applying for special admission under the Multijurisdictional Practice program or Registered Foreign Legal Consultant program, an Application for Determination of Moral Character (moral character application) must be completed after registering with the State Bar as an attorney applicant. The registration application is available on the State Bar’s website at <http://www.calbar.ca.gov/Admissions> or upon request from the Office of Admissions. Applicants for special admission must file a moral character application in conjunction with the application for the Multijurisdictional Practice program or Registered Foreign Legal Consultant program.

A moral character application or an Application for Extension of Determination of Moral Character (extension application) generally will be processed in a minimum of 180 days from the file date, unless there are issues in the applicant's background that require further

investigation or review by the State Bar. A positive moral character determination is valid for 36 months, and an applicant with a positive determination who has not yet been certified to practice law within that 36-month period must submit an extension application. If an extension application is not submitted prior to the expiration date of the positive moral character determination, the applicant must file a new moral character application if they wish to pursue admission to the practice of law. (*Admissions Rules*, Rule 4.51.)

All questions on the application must be answered completely and accurately, or the application will be considered incomplete. The application must be signed, the correct fee must be included, and the application must be accompanied by a *Request for Live Scan Service* form completed within the last 90 days or two (2) fingerprint cards completed within the last year. Any application not meeting these requirements is considered incomplete, and it will not be considered filed until it is brought to a complete status. An application submitted in hard copy form must be received in the Los Angeles Office of Admissions within 30 days of the date the application was signed.

It is the applicant's responsibility to become aware of the moral character determination requirements, to read and understand the instructions, to update the application when changes occur, and to timely comply with all requests for further information.

It takes several months to process an application and gather all of the documents needed to finalize a moral character determination. An applicant may check the status of an application by logging into the Applicant Community at [admissions.calbar.ca.gov](http://admissions.calbar.ca.gov) and checking the status screen. In the event an applicant cannot access the Applicant Community, the status of a moral character application may be obtained by calling the State Bar at 800-843-9053 and asking for the assigned moral character person of the day.

An applicant has the burden of establishing that they are of good moral character. (*Admissions Rules*, Rule 4.40.) An applicant's candor, honesty, and cooperation with the State Bar during the application process are essential for a proper assessment of moral character. Material omissions from the moral character application may provide grounds for a negative moral character determination, whether the omissions were intentional, resulted from a reckless disregard for the truth, or were predicated on advice of a third party.

### **Factors and Conduct Relevant to a Moral Character Determination**

When considering whether an applicant has the good moral character required for admission to practice law in California, the State Bar evaluates whether the applicant possesses the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the law, and respect for the rights of others and for the judicial process. The severity of the issue, length of time since the incident, and the frequency with which an act occurred are all factors that will be taken into consideration. This is a holistic determination; there is no act of misconduct that, in and of itself, automatically disqualifies an individual from obtaining a positive moral character determination. (See *In re Gossage* (2000) 23 Cal.4th 1080,

1094, 1098; *Bernstein v. Committee of Bar Examiners* (1968) 69 Cal.2d 90, 107; see also Decision Matrices.)

Past misconduct, however, requires a showing of rehabilitation that is commensurate with the seriousness of the misconduct. Accordingly, serious acts of misconduct require, “a compelling showing of rehabilitation and truly exemplary conduct over an extended period.” (*In re Glass* (2014) 58 Cal.4th 500, 522.) Demonstrating exemplary conduct typically includes both refraining from further misconduct and engaging in affirmative rehabilitative acts, such as making appropriate amends to any person or entity harmed by the misconduct, performing community service, or taking relevant continuing legal education (CLE) courses. Behavior such as holding a steady job, abiding by the law, or getting married and starting a family constitutes ordinary conduct rather than the exemplary behavior expected of a person who has committed misconduct and is trying to demonstrate rehabilitation. Similarly, pro bono work is not truly exemplary for attorneys or those seeking to become attorneys, but rather is expected of them. Remorse alone does not demonstrate rehabilitation; however, a candid admission and full acknowledgement of wrongdoing often is a necessary step in the rehabilitative process.

An applicant’s candor and honesty are primary considerations in determining whether an applicant is of good moral character. Issues relating to an applicant’s candor and honesty may arise, for example, from a material omission or misrepresentation in an applicant’s law school application or moral character application, or during the moral character investigation.

Additional issues relevant to a moral character determination include, but are not limited to:

- Abuse of the Legal Process
- Academic Honor Code/Student Conduct Violations
- Community Supervision
- Criminal History
- Drug/Alcohol Abuse
- Fraudulent Activity
- Lack of Respect for the Rights of Others
- Past Due Debt/Financial Responsibility/Bankruptcy
- Prior License Denial
- Professional Obligations/Discipline
- Unauthorized Practice of Law
- Violation of Court Orders/Respect for the Law

*Abuse of the Legal Process* – Examples of abuse of the legal process include the filing of frivolous claims or the raising of frivolous defenses for the purpose of delaying proceedings, or bringing actions for the purpose of harassing litigants. Evidence that an applicant has abused the legal process may include the imposition of judicial sanctions or judicial designation as a vexatious litigant.

*Academic Honor Code/Student Conduct Violations* – A violation of a school’s honor code or student conduct code, particularly one that involves moral turpitude, may reflect negatively on an applicant’s moral character. This is especially true of a law student, who is expected to have a particular commitment to honesty and is presumed to understand that misconduct could jeopardize the student’s ability to practice law.

*Community Supervision* – The fact that an applicant is under community supervision does not automatically disqualify the applicant from receiving a positive moral character determination. Compliance with conditions of probation, parole, or other community supervision is, however, required by law, and accordingly is not sufficient to demonstrate rehabilitation from the acts that resulted in the term of supervision. Additionally, an intentional or material failure to comply with the conditions is considered an aggravating factor with respect to rehabilitation.

*Criminal History* – There is no criminal act that disqualifies an applicant from receiving a positive moral character determination, given a sufficient showing of rehabilitation. Where serious misconduct occurs, positive inferences about the applicant’s moral character are more difficult to draw, and negative character inferences are stronger and more reasonable. When there have been serious acts of moral turpitude, the applicant must demonstrate that he or she behaved in an exemplary fashion over a meaningful period of time. Criminal acts not involving moral turpitude, such as some acts of civil disobedience, do not provide a basis for a negative moral character determination absent evidence beyond the act’s criminal nature that shows it demonstrates a lack of good moral character.

*Drug/Alcohol Abuse* – Use of alcohol or other drugs alone does not provide a basis for a negative moral character determination, but may be relevant when the substance use is related to acts of misconduct. An applicant who has engaged in acts of moral turpitude related to illegal drug use is not required to obtain treatment or admit addiction in order to show rehabilitation; however, voluntary enrollment in some form of substance abuse treatment may serve as an indicium of rehabilitation.

*Fraudulent Activity* – Acts or allegations of deceit or fraud will be evaluated when determining if an applicant is of good moral character. Issues relating to fraud may include filing false legal claims, making false statements on an employment or school application, making false statements on a credit application, or a conviction of a crime in which an intent to defraud is an element.

*Lack of Respect for the Rights of Others* – Examples of acts that may suggest a lack of respect for the rights of others include a failure to satisfy an adverse civil judgment or pay restitution to a victim in a criminal matter, or an infringement upon the rights of another person.

*Past Due Debt/Financial Responsibility/Bankruptcy* – Indebtedness alone is not a basis for a negative moral character determination, nor is the fact that an applicant has discharged debts in bankruptcy. However, moral character issues may arise if indebtedness is handled irresponsibly or if bankruptcy is used to defraud creditors. Additionally, persons convicted of crimes involving a breach of fiduciary duty are presumed not to be of good moral character in the absence of a showing of reform and rehabilitation, which must include, at a minimum, a lengthy period of not only unblemished, but exemplary conduct.

*Prior License Denial* – An applicant who has reapplied following a negative moral character determination must demonstrate sufficient rehabilitation by showing a substantial period of

exemplary conduct following the misconduct that was the basis for the previous negative moral character determination.

*Professional Obligations/Discipline* – An applicant’s adherence to, or violation or neglect of professional obligations is relevant to a moral character determination.

*Unauthorized Practice of Law* – The unauthorized practice of law may include, but is not limited to, appearing in court or other tribunals acting as a legal representative for someone else, providing legal advice, preparing legal instruments and contracts, or holding oneself out as practicing or entitled to practice law without the benefit of licensure or another status that confers the ability to practice law in a limited capacity in California, such as Registered In-House Counsel, or in other jurisdictions.

*Violation of Court Orders/Respect for the Law* – The practice of law requires diligence, respect for the law, and compliance with court orders. Violations of court orders, including failure to appear, failure to satisfy a judgment, failure to adhere to a restraining order, or other conduct evidencing a lack of respect for the law are relevant to a moral character determination.

### **Further Investigation and Informal Conferences**

Once an application is considered filed, the application may be approved or referred for further investigation by the State Bar. Further investigation may include requesting additional information from the applicant or third parties. In the event an application requires further review after the supplemental information and documentation have been obtained, an applicant may be invited to attend an informal conference with the State Bar. The informal conference is intended to provide the State Bar and the applicant an opportunity to discuss the relevant issues and factors present in the moral character application for a determination to be rendered. An applicant may obtain legal counsel to attend and observe the informal conference. Participation in an informal conference is not required and the State Bar will draw no negative inference if the applicant chooses to decline the invitation. However, a determination may be made based on the available information, without the benefit of the informal conference.

A determination will be made subsequent to the informal conference. The decision may include conferral of a positive determination, an offer of abeyance, re-referral for further investigation, deferral, or the denial of a positive moral character determination. (See Procedures Governing Informal Conferences for more information.)

An applicant notified of an adverse determination of moral character by the State Bar may file a written request for administrative review by the Committee of Bar Examiners (Committee) within 30 days of the date of the notice of the State Bar’s determination. (See Procedures Regarding Requests For Administrative Review by the Committee of Bar Examiners of Adverse Determinations of Moral Character.)

An applicant notified of an adverse determination of moral character by the Committee may file a request for hearing on the determination with the State Bar Court within 30 days of the notice of the Committee's determination pursuant to the applicable Admissions Rules (*Admissions Rules*, rule 4.47) and the Rules of Procedure of the State Bar (*Rules Proc. of the State Bar*, rule 5.460 et seq.).

## Decision Matrices

The Decision Matrices reflect the methodology typically utilized by the State Bar in completing an analysis of issues relevant to the determination of whether an applicant possesses the requisite moral character for licensure to practice law. The matrices do not contain an exhaustive list of issues and examples relevant to a moral character determination. Applicants are unique and will be considered on their individual merits. Accordingly, the matrices neither bind nor limit the discretion of the decision-makers and are for informational purposes only. The severity of an act of misconduct, length of time since the act, and the frequency with which the act occurred will be taken into consideration.

The matrices are organized by values referred to in the definition of good moral character. (*Admissions Rules, Rule 4.40.*) Each matrix contains issues related to the relevant moral character value that may arise during the investigation of a moral character application, and the possible outcomes. (See Decision Matrices.)

### Decision Matrices by Value:

- Honesty, Fairness, Candor, Trustworthiness
- Observance of Fiduciary Responsibility and/or Financial Responsibility
- Respect for and Obedience to the Law
- Respect for the Rights of Others and the Judicial Process