

Moral Character Statement

The Committee of Bar Examiners of the State Bar of California (committee) is responsible for certifying qualified applicants for admission to practice law to the Supreme Court of California. The committee was established in accordance with provisions contained in the Business and Professions Code and acts as an administrative arm of the Supreme Court of California.

To obtain a license to practice law, an applicant must meet the pre-legal and legal education requirements, pass the specified examinations and must possess good moral character mandated by the Business and Professions Code and outlined in the Rules of the State Bar of California, Title 4, Admissions and Educational Standards.

The purpose of this statement is to discuss the "good moral character" requirement. The applicant has the burden of establishing his or her current good moral character. An application separate from the application to take the bar examination must be filed to initiate the moral character screening process.

The committee's Subcommittee on Moral Character conducts the inquiry into an applicant's background. Each case is considered individually. This process generally takes four to six months to complete. It is recommended that applicants file the moral character application no later than the beginning of their last year of law school so there is no delay in certification upon passage of the necessary examinations.

In making its determination whether an applicant presently possesses the good moral character necessary for admission to practice law in California, the committee considers evidence of candor and honesty, respect for the law and the rights of others, fiscal responsibility, and records of fidelity and trustworthiness in other professions for which he or she is licensed.

Recommendations and comments from present and former employers and references supplied by the applicant are considered. Fingerprints are sent to the California Department of Justice and the Federal Bureau of Investigation for processing. The Department of Motor Vehicles is contacted. Information provided by the applicant, by the law schools, and by other outside sources is verified and studied. If a file cannot be resolved at the staff level, the case is referred to the committee through its Subcommittee on Moral Character for determination.

In the vast majority of cases, an applicant's good moral character is established with ease and the applicant may expect to be admitted to practice promptly after satisfying the other requirements for admission set forth in the Rules.

When serious moral character questions do arise, an informal conference between the subcommittee and the applicant may be scheduled in an attempt to resolve the issues of concern. This voluntary conference is intended to be non-adversarial and non-confrontational.

The applicant may elect to decline the conference. The committee draws no inferences from an applicant's declining to confer and if an applicant does decline that in itself will not enter into the committee's decision whether the applicant possesses the good moral character necessary for certification for admission to practice law. In those instances where the committee determines that an applicant does not possess the requisite good moral character, the applicant will be advised of that determination and the reasons for it. If the committee determines that an applicant has not established the necessary good moral character for certification, the applicant has the right to appeal and may request a hearing before the State Bar Court. The State Bar Court's decision recommending certification or denial of certification for admission to practice law is binding on the committee. The committee does have the right to appeal the State Bar Court's decision to the Supreme Court of California.

It is the policy of The State Bar of California that persons who have been convicted of violent felonies, felonies involving moral turpitude and crimes involving a breach of fiduciary duty are presumed not to be of good moral character in the absence of a pardon or a showing of overwhelming reform and rehabilitation. The committee shall exercise its discretion to determine whether applicants convicted of violent felonies, felonies involving moral turpitude and crimes involving a breach of fiduciary duty have produced overwhelming proof of reform and rehabilitation, including at a minimum, a lengthy period of not only unblemished, but exemplary conduct.

For example, in determining whether past criminal activity is presently disqualifying, the committee will consider the nature of the activity; whether there were aggravating or mitigating circumstances; whether restitution has been made, if appropriate; the age and education of the applicant at the time of the activity; the age and education of the applicant at the present time; whether all terms of the sentence, including parole/probation, have been served; the informed opinions of others as to the applicant's present moral character; and the nature and extent of the voluntary rehabilitative activities, including career, civic, and family activities in which the applicant has been involved since the criminal activity in question.

For a more detailed list of rehabilitative factors, applicants may request the committee's policy statement entitled Factors That May Be Taken into Consideration When Evaluating the Rehabilitation of an Applicant Seeking a Moral Character Determination.

The committee believes that past criminal activity not including violent felonies, felonies involving moral turpitude and crimes involving a breach of a fiduciary duty is not necessarily disqualifying if sufficient time has passed during which the applicant has demonstrated rehabilitation and respect for the law and the rights of others.

The amount of time and the extent of the rehabilitation will be dependent upon the nature and the seriousness of the criminal activity under consideration. Again, applicants are encouraged to request the committee's policy statement on rehabilitation factors.

Drug and alcohol abuse and dependencies are considered major problems in today's society and as such can be seen in the number of lawyer discipline cases that are directly related to these problems. These issues are of particular concern to the Committee.

An applicant's record is reviewed as a whole to see if there appears to be a problem. If so, the applicant may be asked to undergo an evaluation by a qualified professional chosen by the committee. In instances where there is evidence of a present dependency or an applicant has not established a track record of recovery, the committee, in lieu of certification, may offer the applicant the opportunity to place his or her application in abeyance for a specified period of time while agreed to conditions regarding treatment and recovery are initiated and confirmed.

A determination that an applicant has not met the burden of establishing current good moral character will not be based solely on whether the applicant is afflicted with substance dependency. The committee understands that it is a disease and that it is treatable.

However, in cases where an applicant continues to consume mood altering substances in spite of a diagnosis of dependency by a qualified professional or an applicant's refusal to follow a treatment plan prescribed by a qualified professional, the committee may consider such behavior as reflective of current character and conclude that the applicant does not have the current good moral character necessary for certification.

Indebtedness alone is not considered by the committee as relevant to moral character. Similarly, the fact that an applicant has availed himself or herself of rights under the federal bankruptcy laws does not reflect on moral character. However, if indebtedness is being handled irresponsibly or if bankruptcy was resorted to in an effort to defraud creditors, moral character issues may arise.

An applicant's candor in revealing any moral character related problems when completing the moral character application is extremely important and will serve to expedite the processing of an application. Lack of candor in and of itself as it relates to moral character may be enough to deny certification on moral character grounds.

All moral character considerations and committee procedures are not addressed in this statement. The committee urges individuals who have specific questions regarding moral character to write the Office of Admissions in San Francisco. While guidance may be provided, the committee cannot make a moral character determination until an application for such a determination has been filed and a complete inquiry into the applicant's background has been made.

Factors Regarding Moral Character Determination

Factors that may be taken into consideration when evaluating the rehabilitation of an applicant seeking a moral character determination

The Committee of Bar Examiners of the State Bar of California (Committee), when considering whether an applicant has the good moral character required for admission to practice law in California required by Section 6060 of the Business and Professions Code and [Title 4, Division 1, Chapter 4 of the Rules of the State Bar of California](#) (Admission Rules), evaluates whether an 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. Involvement in activity that constitutes an act of misconduct or an act of moral turpitude does not necessarily preclude an applicant from admission to practice law in California; however, an applicant who has committed such acts must demonstrate rehabilitation prior to receiving a positive moral character determination.

An act of misconduct may include, but is not limited to, behavior that results in a criminal conviction, behavior that results in a sustained accusation of fraud or a sustained allegation of unauthorized practice of law, the violation of a school's honor code that involves moral turpitude or results in expulsion, professional discipline and license revocation or disbarment. Material omissions from the moral character application, misstatements in the moral character application, failure to provide requested information and misrepresentations during informal conferences conducted by the Committee are also considered to be significant misconduct.

It is the policy of the State Bar of California that persons who have been convicted of violent felonies, felonies involving moral turpitude and crimes involving a breach of fiduciary duty are presumed not to be of good moral character in the absence of a pardon or a showing of overwhelming reform and rehabilitation. The Committee will exercise its discretion to determine whether applicants convicted of violent felonies, felonies involving moral turpitude and crimes involving a breach of fiduciary duty have produced overwhelming proof of reform and rehabilitation, including at a minimum, a lengthy period of not only unblemished, but exemplary conduct.

Truly exemplary conduct typically includes service to the community. Rehabilitation often includes making appropriate amends to any person or entity harmed by the misconduct of the applicant. It should be noted that the testimony of character witnesses alone will not adequately show rehabilitation nor will the applicant's statements of remorse. It should also be noted that behavior such as holding a steady job, abiding by the law, 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. Likewise, pro bono work is not truly exemplary for attorneys, but rather is expected of them.

The more serious the misconduct, the stronger an applicant's showing of rehabilitation must be. When applicants have committed serious misconduct, they must convince the Committee

that they are no longer the same person who behaved poorly. In such cases, positive inferences about their character are harder to draw and negative inferences are stronger and more reasonable.

The factors enumerated below are guidelines that may be taken into consideration when evaluating whether an applicant has demonstrated rehabilitation. Not all factors listed below will be applicable to every single case nor will each factor necessarily be given equal weight in evaluating the rehabilitation of an applicant. The following factors, among others, assist the Committee in determining whether an applicant has demonstrated rehabilitation from an act of misconduct or moral turpitude:

1. The nature of the misconduct, including whether it involved moral turpitude, whether there were aggravating or mitigating circumstances, and whether the activity was an isolated event or part of a pattern.
2. The age and education of the applicant at the time of the act of misconduct and the age and education of the applicant at the present time.
3. The length of time that has passed between the act of misconduct and the present, absent any involvement in any further acts of misconduct. The amount of time and the extent of rehabilitation will be dependent upon the nature and seriousness of the act of misconduct under consideration.
4. Whether applicant has made amends to any person or entity who suffered harm as a result of applicant's misconduct, including whether restitution has been made to any person or entity who suffered monetary losses as a result of applicant's misconduct.
5. The expungement of a conviction or receipt of a pardon.
6. Successful completion or early discharge from probation or parole.
7. Reinstatement of a professional license, reinstatement into a profession or satisfaction of the terms of discipline, where an applicant has been disciplined in another profession.
8. Abstinence from the use of controlled substances or alcohol for not less than two years if the misconduct was attributable in part to the use of a controlled substance or alcohol. Abstinence may be demonstrated by, but is not necessarily limited to, enrolling in and complying with a self-help or professional treatment program.
9. Evidence of remission for not less than two years if the specific act of misconduct was attributable in part to a medically recognized mental disease, disorder or illness. Evidence of remission may include, but is not limited to, seeking professional assistance and complying with the treatment program prescribed by the professional and

submission of letters from the psychiatrist/psychologist verifying that the medically recognized mental disease, disorder or illness is in remission.

10. Payment of a fine imposed in connection with any criminal conviction.
11. Correction of behavior responsible in some degree for the act of misconduct.
12. Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.
13. Significant involvement in and service to community, church or privately sponsored programs designed to provide social benefits or to ameliorate social problems.
14. Change in attitude from that which existed at the time of the act of misconduct in question as evidenced by any or all of the following:
 - a. Statements of the applicant.
 - b. Statements from family members, friends or other persons familiar with the applicant's previous conduct and with subsequent attitudes and behavioral patterns.
 - c. Statements from probation or parole officers or law enforcement officials as to the applicant's social adjustments.
 - d. Statements from persons competent to testify with regard to neuropsychiatric or emotional disturbances.

CIRCUMSTANCES IN AGGRAVATION AND MITIGATION WHICH SHOULD BE CONSIDERED WHEN REVIEWING A MORAL CHARACTER APPLICATION

CIRCUMSTANCES IN AGGRAVATION

Circumstances in aggravation include:

- Facts relating to the crime, whether or not charged or chargeable as enhancements, including the fact that:
 - The crime involved great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a high degree of cruelty, viciousness or callousness.
 - The applicant was armed with or used a weapon at the time of the commission of the crime.
 - The victim was particularly vulnerable.
 - The applicant induced others to participate in the commission of the crime or occupied a position of leadership or dominance of others.
 - The manner in which the crime was carried out indicated planning, sophistication or professionalism.
 - The crime involved a large quantity of contraband.
 - The applicant took advantage of a position of trust or confidence to commit the offense.
- Facts relating to the applicant, including the fact that:
 - The applicant has engaged in violent conduct which indicates a serious danger to society.
 - The applicant's prior convictions are numerous or of increasing seriousness.
 - The applicant was on probation or parole when the crime was committed.

CIRCUMSTANCES IN MITIGATION

Circumstances in mitigation include:

- Facts relating to the crime, including the fact that:
 - The applicant was a passive participant or played a minor role in the crime.
 - The applicant, with no apparent predisposition to do so, was induced by others to participate in the crime.
 - The applicant participated in the crime under circumstances of coercion or duress, or the criminal conduct was partially excusable for some other reason not amounting to a defense.
 - The victim was an initiator of, willing participant in, or aggressor or provoker of the incident.
 - The crime was committed because of an unusual circumstance, such as great provocation, which is unlikely to reoccur.
 - The applicant exercised caution to avoid harm to persons or damage to property, or the amounts of money or property taken were deliberately small, or no harm was done or threatened against the victim.
 - The applicant was motivated by a desire to provide necessities for his or her family or self.
- Facts relating to the applicant, including the fact that:
 - The applicant had no prior record, or an insignificant record of criminal conduct, considering the regency and frequency of prior crimes.
 - The applicant voluntarily acknowledged wrongdoing prior to arrest or at an early stage of the criminal process.
 - The applicant made restitution to the victim.

*Adopted from the California Rules of Court
Rules 4.421 and 4.423*



The State Bar of California

OFFICE OF ADMISSIONS

Date: June 7, 2019

To: Moral Character Working Group

From: Moral Character Determinations Unit

Subject: Abeyance Options

Pursuant to Title 4, Division 1, Chapter 4 of the Admissions Rules, Rule 4.48 Agreement of Abeyance states:

(A) The State Bar and an applicant may suspend processing of an Application for Determination of Moral Character by an Agreement of Abeyance

- (1) when a court has ordered an applicant charged with a crime to be treated, rehabilitated, or otherwise diverted;
- (2) when a court has suspended the sentence of an applicant convicted of a crime and placed the applicant on probation;
- (3) when an applicant is actively seeking or obtaining treatment for chemical dependency or drug or alcohol addiction; or
- (4) if the State Bar and an applicant otherwise agree.

(B) An Agreement of Abeyance must be in writing and specify the period and conditions of abeyance. A copy must be provided to the applicant.

Rule 4.48 adopted effective September 1, 2008; amended effective May 17, 2019.

An offer of abeyance may include one or more of the options below:

- Participation in the State Bar of California's Lawyer Assistance Program ("LAP") for an evaluation or a specified period of time;
- Successful completion of the State Bar of California's Ethics School;

- Successful completion of the State Bar of California's Client Trust Accounting School;
- Successful completion of a predetermined number of MCLE credits, which subject matter may be specified as Ethics, Professional Responsibility, Sexual Harassment, or other relevant topic;
- Participation in an Anger Management program, which program is subject to approval of the Program Manager;
- Completion of a Psychological Evaluation; or
- Proof of completion of specific actions, such as filing taxes, acceptance of an Offer in Compromise, or addressing past due debts.