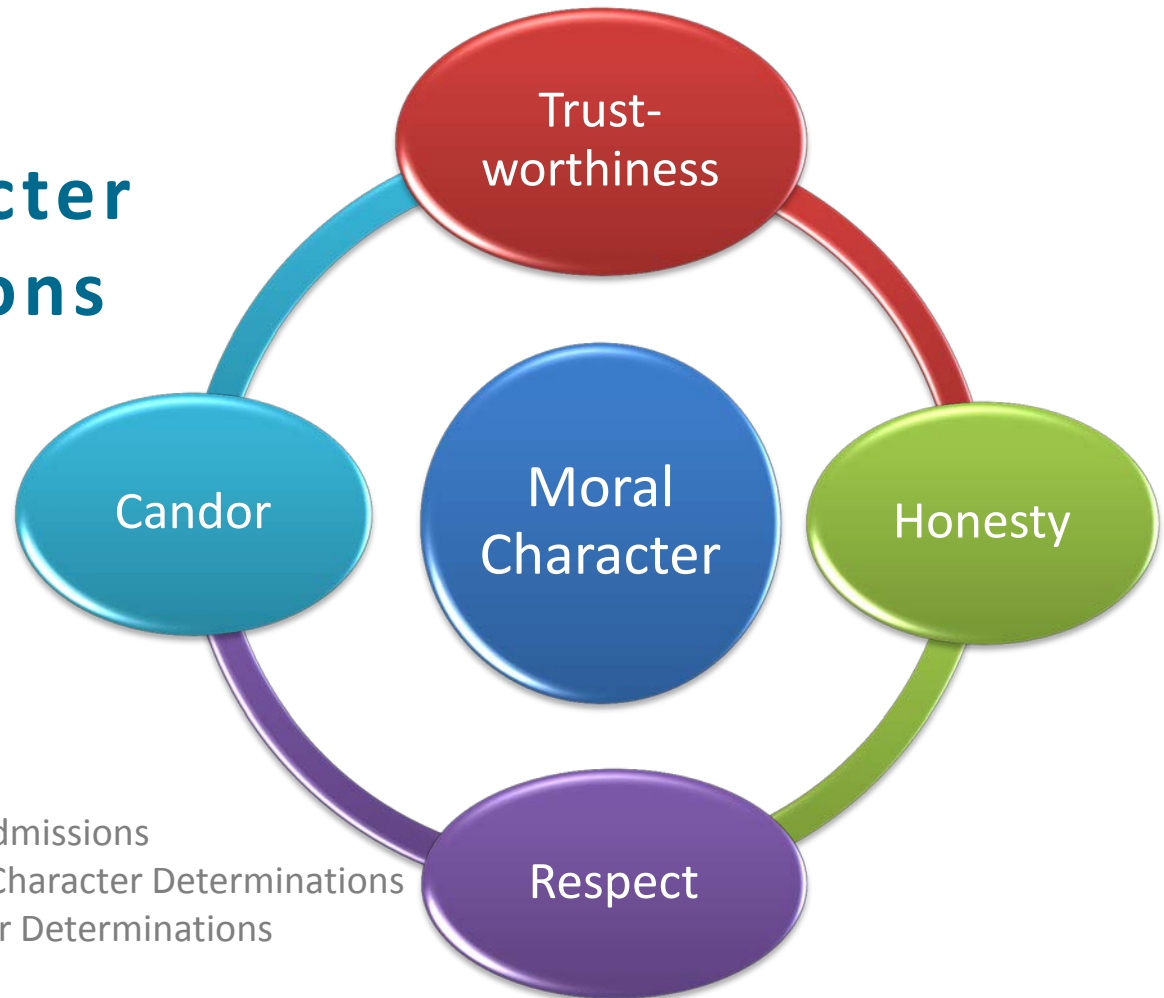




The State Bar of California

Moral Character Determinations



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Moral Character Definition

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.



Moral Character Statement - Highlights

- The applicant has the burden of establishing his or her current good moral character.
- The following factors are considered: 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.
- Contacted third parties include: current and past employers, California DOJ and the FBI, California DMV, law schools, and other outside sources.
- The State Bar of California considers 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.



Factors Regarding Moral Character - Highlights

- An applicant who has committed an act of misconduct, or an act of moral turpitude, must demonstrate rehabilitation prior to receiving a positive moral character determination.
- 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. The more serious the misconduct, the stronger an applicant's showing of rehabilitation must be.
- 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.



Factors Regarding Moral Character – Highlights Continued

Current guidelines for evaluating whether an applicant has demonstrated rehabilitation:

1. Nature of misconduct
2. Age and education of the applicant
3. Length of time that has passed
4. Amends, including restitution
5. Expungement or receipt of a pardon
6. Completion of, or early discharge from, probation or parole
7. Reinstatement of a professional license
8. Abstinence not less than two years – controlled substance or alcohol
9. Remission not less than two years – mental disease, disorder or illness
10. Payment of fines
11. Correction of behavior
12. Education or vocational training courses for economic self-improvement
13. Service to the community, church, or other social benefit program
14. Change in attitude



Aggravating and Mitigating Circumstances

Aggravating

- Violence, great bodily harm or threat thereof, or acts involving cruelty, viciousness or callousness
- Use of or being armed with a weapon
- Vulnerable victim
- Induced others to participate or a position of leadership/dominance in the crime
- Manner in which the crime was carried out
- Large quantity of contraband
- In a position of trust or confidence
- Numerous prior convictions with increasing seriousness
- On probation or parole while committing the crime

Mitigating

- Passive participant or played a minor role in the crime
- No apparent predisposition
- Participated under coercion, duress, or some other partially excusable reason
- The victim initiated, willingly participated in, or was the aggressor in the incident
- Occurred due to an unusual circumstance that is unlikely to reoccur
- Exercised caution to avoid harm or amount taken was deliberately small
- Motivated by the need to provide necessities for family or self
- No prior record or insignificant record
- Voluntarily acknowledged wrongdoing early on
- Made restitution to the victim



Moral Character Department





Application Levels (Examples)

Level One

- Juvenile Misds.
- Vehicle Code Infractions
- Bankruptcy – No Obj.
- Academic Probation

Level Two

- Misds.
- FTA
- Job Term.
- Minor College Infractions
- Complaint Against Attny – Dismissed
- DUI/Wet Reckless (probation complete, low BAC)

Level Three

- DUIs (multiple >5 years , on probation)
- Military Discp. – Moral Turp.
- Other Minor Prof. Discipline
- Major Undergrad. Discipline

Level Four

- Felony Conv.
- Drug Sales
- 2+ DUIs w/in 5 years
- Law School Honor Code Violation
- Court Sanctions
- UPL
- Prof. Suspension, Discipline, or Disbarment



Committee of Bar Examiners' Decisions After Informal Conference

Positive Determination

- Valid for 3 years
- An extension application may be submitted before the positive determination has expired

Re-Refer for Further Investigation

- Collect additional information requested by CBE members
- OCTC Review

Abeyance

- Examples - anger management, LAP, MCLE, Ethics School, CTA School
- If the applicant fails to complete the terms of abeyance, back to CBE
- If the applicant successfully completes abeyance, the file is administratively cleared by staff or referred for another informal conference (if required)

Negative Determination

- Standard denial is for 2 years
- Applicant may appeal the decision to State Bar Court Hearing Dept.
- Party who does not prevail may appeal to SBC Review Dept.
- Party who does not prevail may appeal to the CA Supreme Court



Appeals of Moral Character Determinations

