

Moral Character Determination - Decisional Matrix

Respect for and Obedience to the Law	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravating and Mitigating Factors
Municipal Violation: indecent exposure, excessive garbage, overgrown weeds	Seldom irrelevant	Seldom irrelevant	Seldom irrelevant	
Vehicle Code Infractions	Seldom irrelevant	Seldom irrelevant	Seldom irrelevant	
Vehicle Code Misdemeanors: <ul style="list-style-type: none"> • Hit and run • Reckless driving • Failure to appear 	<ul style="list-style-type: none"> • If reckless driving or failure to appear = irrelevant if 5 years or older • Driving without a license, driving with suspense license, or speeding = irrelevant (regardless of time frame) 	Hit and run = additional inquiry	Seldom irrelevant	

Moral Character Determination - Decisional Matrix

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<p>Juvenile Misdemeanor:</p> <ul style="list-style-type: none"> • Shoplifting • Alcohol possession • Drug paraphernalia • Vandalism • Public intoxication • Joyriding, • Assault • False information to police officer • Stalking • DV <p>Juvenile Felony:</p> <ul style="list-style-type: none"> • Robbery • DV • Assault • Anything with gun • Stalking cases • Indecent exposure • Forgery • ID theft 	Any misdemeanors or felonies that took place when applicant was 15 or younger = irrelevant	<p>For applicants who juvenile misdemeanors or felonies took place when they were 16-18:</p> <ul style="list-style-type: none"> • Joyriding (passenger v. driver) • Anything theft related = additional inquiry • Gun washout period 5 or 10 years • Indecent exposure (if one time, nothing else, washout after 5 years). If pattern, additional inquiry 		

Moral Character Determination - Decisional Matrix

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<p>Adult Misdemeanor: Theft</p> <ul style="list-style-type: none"> Disorderly conduct DV including child abuse Elder abuse <p>NOTE: PC 851.91 Anyone arrested, not guilty – records are sealed upon motion to court. Anything with 851.91 granted petition is irrelevant</p>	If expunged = irrelevant		Within 5 years and pattern	<p>Mitigating:</p> <ul style="list-style-type: none"> Drug treatment Age of conviction

Moral Character Determination - Decisional Matrix

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DUI/Reckless Driving Conviction	<ul style="list-style-type: none"> • DUI or Reckless Driving Conviction – cooperative with police, BAC <.08, prior to law school matriculation • If single DUI and expunged = irrelevant 	<ul style="list-style-type: none"> • DUI Conviction – uncooperative with police, BAC >.08, minimal narrative • If multiple DUIs = additional inquiry 	DUI Conviction – resisting arrest or battery upon an officer, BAC >.16, during or after law school, after positive MC determination	<p>Aggravating:</p> <ul style="list-style-type: none"> • Causing Great Bodily Injury • BAC > .16% within the last 5 years • Multiple convictions • Still on probation • FTA, FTP, or bench warrant • Moral Turpitude • Omitted on Moral Character Application or law school application <p>Mitigating:</p> <ul style="list-style-type: none"> • Conviction expunged or dismissed • BAC <.08 • Probation successfully completed • Age and length of time • Rehabilitative efforts • No or insignificant prior record

Moral Character Determination - Decisional Matrix

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Felony Conviction: <ul style="list-style-type: none"> • Drug • Property • Violent Theft • Fraud • ID theft • Unlawful Practice of Law 	<ul style="list-style-type: none"> • If expunged = irrelevant • In accordance with PC 667.5(b), any non-violent felony that is 5 years old and nothing subsequent = irrelevant 	Any violent felony = additional inquiry (but for discussion with group, consider PC 667.5(a) – 10 year washout period for violent felony)		
Conviction of Drug Sales/Possession of Narcotic Substance: <ul style="list-style-type: none"> • Sales v. possession • Amount of sales 	<ul style="list-style-type: none"> • If sealed through deferred entry of judgement (DEF) for first time drug user (PC 1001) = irrelevant. • Prop 36 dismissed and expunged = irrelevant 	<ul style="list-style-type: none"> • Drug sale conviction(s) = additional inquiry • Multiple drug possession convictions = additional inquiry 		

Moral Character Determination - Decisional Matrix

Honesty, Candor, Trustworthiness, Fairness	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravating and Mitigating Factors
Job termination	<ul style="list-style-type: none"> Layoff Termination without cause 	Termination with cause (e.g. violation of company policy)	Termination with cause (e.g. violation of law)	Aggravating: <ul style="list-style-type: none"> Termination due to severe or pervasive behavior Pattern of termination Mitigating: <ul style="list-style-type: none"> Restitution Whistleblowing Exhibited remorse
Honor Code violation – undergraduate/post-graduate	Academic dismissal due to low GPA	Infraction (as defined by the school)	Serious violation (as defined by the school)	Aggravating: <ul style="list-style-type: none"> Pattern of behavior Attempt to conceal or mislead Mitigating: <ul style="list-style-type: none"> Lack of intent Took responsibility for violation Exhibited remorse

Moral Character Determination - Decisional Matrix

Honesty, Candor, Trustworthiness, Fairness	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravating and Mitigating Factors
Honor Code violation – law school	Academic dismissal due to low GPA	Infraction (as defined by the school)	Serious violation (as defined by the school)	Aggravating: <ul style="list-style-type: none"> • Pattern of behavior • Attempt to conceal or mislead Mitigating: <ul style="list-style-type: none"> • Lack of intent • Took responsibility for violation • Exhibited remorse
Omission	Mistake/error	Minor omission	Material Omission	Aggravating: <ul style="list-style-type: none"> • Intentional omission/misrepresentation • Perpetuated the omission • Did not acknowledge wrongdoing Mitigating: <ul style="list-style-type: none"> • Later disclosed by applicant • Took responsibility for omission

Moral Character Determination - Decisional Matrix

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Fraud	N/A	Scalability matters - consider federal guidelines and severity (financial, number of victims, etc.)	Scalability matters - consider federal guidelines and severity (financial, number of victims, etc.)	Aggravating: <ul style="list-style-type: none"> • Multiple impacted victims Mitigating: <ul style="list-style-type: none"> • Restitution • Minimal financial impact • Exhibited remorse
Admission denial – practice of law	Denial based on technicality (more research needed); denial based on abandonment of application by applicant	Denial based on substantive factor and/or moral character considerations	Denial based on substantive factor and/or moral character considerations	
Admission/license denial - other profession	Denial based on technicality (more research needed); denial based on abandonment of application by applicant	Denial based on substantive factor and/or moral character considerations	Denial based on substantive factor and/or moral character considerations	

Moral Character Determination - Decisional Matrix

Observance of Fiduciary Responsibility and/or Financial Responsibility	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravating and Mitigating Factors
Bankruptcy	No objections, discharged	Objections - dismissed	Findings of fraud, revocation of discharge, objections – sustained	Aggravating: <ul style="list-style-type: none"> • Omitted on Moral Character application • Recent (within the last 5 years) • Contempt of Court Mitigating: <ul style="list-style-type: none"> • Successfully completed Chapter 13 repayment plan • Circumstances beyond control • Currently financially responsible
Past due debt/debt in collections	Current debt if not past due (debt in and of itself is not a factor)	Debt in collections; default on X types of loans	Suit filed to recover debts	Aggravating: <ul style="list-style-type: none"> • Failure to take steps to settle debt Mitigating: <ul style="list-style-type: none"> • Past due debt for medical care • Discharge of obligations

Moral Character Determination - Decisional Matrix

Observance of Fiduciary Responsibility and/or Financial Responsibility	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravating and Mitigating Factors
Unpaid/past due state or federal taxes	Mistake/error	Civil (penalty; financial settlement)	Criminal (fraud; conviction for tax evasion)	Aggravating: <ul style="list-style-type: none"> • Pattern of behavior • Attempt to conceal or mislead Mitigating: <ul style="list-style-type: none"> • Age at the time of failure to pay
Professional Complaint – Attorney	Complaints deemed unsubstantiated, not sustained	Sustained or pending complaints (minor)	Sustained or pending complaints (major)	Aggravating: <ul style="list-style-type: none"> • Pattern of behavior • Attempt to conceal or mislead Mitigating: <ul style="list-style-type: none"> • Took responsibility for behavior • Exhibited remorse
Breach of fiduciary duty	Complaints deemed unsubstantiated, not sustained	Sustained or pending complaints (minor)	Sustained or pending complaints (major)	Aggravating: <ul style="list-style-type: none"> • Pattern of behavior • Attempt to conceal or mislead Mitigating: <ul style="list-style-type: none"> • Took responsibility for behavior • Exhibited remorse

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Civil Action	Less than 5 cases; none with a cause of action alleging serious misconduct of the moral character determination applicant (e.g., fraud, misrepresentation, breach of a fiduciary duty, gross negligence committed in a professional capacity, assault, battery, wrongful death)	<ul style="list-style-type: none"> • More than 5 cases; • A case or cases alleging serious misconduct of the moral character determination applicant (e.g., fraud, misrepresentation, breach of a fiduciary duty, gross negligence committed in a professional capacity, assault, battery, wrongful death) 	Excessive number of cases; Numerous adverse judgments Entry of a judgment against the moral character determination applicant for serious misconduct (e.g., fraud, misrepresentation, breach of a fiduciary duty, gross negligence committed in a professional capacity, assault, battery, wrongful death.)	Aggravating: <ul style="list-style-type: none"> • Designation of applicant as a vexatious litigant • Civil contempt sanction(s) against applicant • Punitive damages against applicant Mitigating: <ul style="list-style-type: none"> • Meritorious nature of the applicant's involvement in the litigation • Engaged in a type of business that typically experiences recurrent litigation • Favorable termination of the litigation

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Administrative Action	Less than 5 administrative actions; none alleging serious misconduct of the moral character determination applicant (e.g., fraud, deceit, misrepresentation, forgery, or malpractice)	<ul style="list-style-type: none"> • More than 5 administrative actions; • An administrative action or actions involving a complaint against applicant alleging serious misconduct (e.g., fraud, deceit, misrepresentation, forgery, or malpractice) 	<ul style="list-style-type: none"> • Excessive number of administrative actions; • Adverse administrative determination against applicant of serious misconduct (e.g., fraud, deceit, misrepresentation, forgery, or malpractice) 	<p>Aggravating:</p> <ul style="list-style-type: none"> • Designation of applicant's administrative claim(s) as frivolous by a judge of an administrative court • Contempt sanction imposed by a judge of an administrative court <p>Mitigating:</p> <ul style="list-style-type: none"> • Engaged in an enterprise or activity that typically experiences recurrent administrative actions • Meritorious nature of applicant's administrative claims • Favorable termination of the administrative action(s)

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Unsatisfied Judgment	N/A	One (or more) unsatisfied judgment	One (or more) unsatisfied judgment	<p>Aggravating:</p> <ul style="list-style-type: none"> • Numerous unsatisfied judgments • No attempt made to satisfy judgment <p>Mitigating:</p> <ul style="list-style-type: none"> • Case(s) that resulted in judgment presently on appeal • Payment plan in place to satisfy judgment

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Conduct Code Violation - Undergraduate /Post-Graduate	N/A	Any allegation of a violation of a school's undergraduate or post-graduate honor code	Any allegation of a violation of a school's undergraduate or post-graduate honor code that involves moral turpitude or results in expulsion	<p>Aggravating:</p> <ul style="list-style-type: none"> Numerous determinations of violations of the same or different honor codes <p>Mitigating:</p> <ul style="list-style-type: none"> The <i>de minimis</i> nature of the misconduct Voluntarily admitting misconduct before gaining any knowledge that someone may suspect an honor code violation

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Conduct Code Violation – Law School	N/A	Any allegation of a violation of a law school's honor code	Any allegation of a violation of a law school's honor code that involves moral turpitude or results in expulsion	<p>Aggravating:</p> <ul style="list-style-type: none"> Numerous determinations of violations of the same or different honor codes <p>Mitigating:</p> <ul style="list-style-type: none"> The de minimis nature of the misconduct Voluntarily admitting misconduct before gaining any knowledge that someone may suspect an honor code violation

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Court Sanctions	N/A	One (or more) court sanction	<ul style="list-style-type: none"> Numerous incidents of imposition of court sanctions One (or more) court sanction for conduct involving dishonesty 	<p>Aggravating:</p> <ul style="list-style-type: none"> Numerous incidents of imposition of court sanctions Sanctioned conduct involved dishonesty <p>Mitigating:</p> <ul style="list-style-type: none"> Subsequent years of sanction free conduct Education and treatment to reform conduct

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Professional Complaint – Other Profession	Informal resolution	One (or more) formal complaint to a professional licensing board	<ul style="list-style-type: none"> Numerous professional complaints A finding of malpractice or other wrongful conduct committed in a professional capacity. 	<p>Aggravating:</p> <ul style="list-style-type: none"> Numerous complaints against the professional Official finding of serious misconduct, grossly incompetent practice, or willful wrongdoing by the professional <p>Mitigating:</p> <ul style="list-style-type: none"> Favorable determination(s) of complaints against the professional

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Professional Complaint -- Attorney	Informal resolution	One (or more) formal complaint to an attorney licensing board	<ul style="list-style-type: none"> Numerous professional complaints against the attorney A finding of malpractice or other wrongful conduct committed by the attorney. 	<p>Aggravating:</p> <ul style="list-style-type: none"> Numerous complaints against the attorney Official finding of serious misconduct, grossly incompetent representation, or willful misrepresentation by the attorney <p>Mitigating:</p> <ul style="list-style-type: none"> Favorable determination(s) of complaint(s) against the attorney

Moral Character Determination - Decisional Matrix

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Malpractice – Other profession	N/A	One (or more) allegation of malpractice	One (or more) allegation of malpractice	Aggravating: <ul style="list-style-type: none"> • Numerous allegations of malpractice • Court finding of malpractice Mitigating: <ul style="list-style-type: none"> • Favorable determination(s) regarding the alleged malpractice
Malpractice – Attorney	N/A	One (or more) allegation of malpractice against the attorney	One (or more) allegation of malpractice against the attorney	Aggravating: <ul style="list-style-type: none"> • Numerous allegations of malpractice Mitigating: <ul style="list-style-type: none"> • Favorable determination(s) for applicant already made by State Bar or a court regarding the alleged malpractice

Moral Character Determination - Decisional Matrix

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Unnecessary	Additional Inquiry Necessary	Informal Conference May Be Needed	Aggravated and Mitigating Factors
Professional discipline – Other profession	Informal resolution	Private reproof, reprimand, admonishment	Public reproof, reprimand, admonishment; suspension; loss of professional license	Aggravating: <ul style="list-style-type: none"> • Moral Turpitude • Multiple Issues/Incidents • Omitted on Moral Character Application • Recent (e.g., within the last 5 years) Mitigating: <ul style="list-style-type: none"> • Successfully completed requirements • Length of time since issue • Rehabilitative efforts • No or insignificant prior record

Moral Character Determination - Decisional Matrix

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Professional discipline -- Attorney	Informal resolution	<ul style="list-style-type: none"> • Private reproof • Reprimand • Admonishment 	Public reprove Reprimand Admonishment Suspension Disbarment	Aggravating: <ul style="list-style-type: none"> • Moral Turpitude • Multiple Issues/Incidents • Omitted on Moral Character Application • Recent (e.g., within the last 5 years) Mitigating: <ul style="list-style-type: none"> • Successfully completed requirements • Length of time since issue • Rehabilitative efforts • No or insignificant prior record

Moral Character Determination - Decisional Matrix

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Unauthorized Practice of Law	N/A	Applicant's conduct "called into question" regarding unauthorized practice of law.	Applicant's conduct "called into question" regarding unauthorized practice of law.	Aggravating: <ul style="list-style-type: none"> Numerous allegations of unauthorized practice of law Mitigating: <ul style="list-style-type: none"> Favorable determination(s) for applicant already made by State Bar or a court regarding alleged unauthorized practice of law violation(s)
Civil Action	<ul style="list-style-type: none"> DOM – no minor children and no support PI – Plaintiff or Insured Defendant Contract – Plaintiff Landlord/tenant - Plaintiff 	<ul style="list-style-type: none"> DOM – w/minor children, ongoing support orders, ongoing restraining orders PI – Uninsured Defendant Contract – Defendant with outstanding judgment Landlord/tenant - Defendant 	<ul style="list-style-type: none"> DOM – claims of violations of court orders or not payment PI – unsatisfied judgment Contract – unsatisfied judgment 	

Moral Character Determination - Decisional Matrix

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Administrative Action	<ul style="list-style-type: none"> DMV – over 4 years ago State Unemployment Board – over 4 years ago 	<ul style="list-style-type: none"> DMV – less than 4 years ago State Unemployment Board – less than 4 years ago 	DMV – less than one year ago	
Unsatisfied Judgment		<ul style="list-style-type: none"> Joint vs. sole debtor Ability to Pay Attempts to address Number 		
Conduct Code violation—undergraduate/post-grad.	<ul style="list-style-type: none"> Under 21 at the time and over 4 years ago No one else involved Only one No unlawful alcohol or drug use No third party victim 	<ul style="list-style-type: none"> Over 21 at the time or less than 3 years ago Others involved More than one Unlawful alcohol or drug use Third party victim(s) 		Mitigating: Acceptance of responsibility
Conduct Code violation—law school	<ul style="list-style-type: none"> Over 4 years ago No one else involved Only one No unlawful alcohol or drug use No third party victim 	<ul style="list-style-type: none"> Less than 4 years ago Others involved More than one Unlawful alcohol or drug use Third party victim(s) 		
Court Sanctions		Always		
Professional Complaint—Other Profession	No action taken by agency	Yes, if there was a written report		

Moral Character Determination - Decisional Matrix

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Professional Complaint—Attorney	No action taken by agency	Yes, if there was a written report		
Malpractice—Other Profession		Always		
Malpractice—Attorney		Always		
Professional Discipline—Other Profession		Always		
Professional Discipline—Attorney	Informal resolution	<ul style="list-style-type: none"> • Private reproof • Reprimand • Admonishment 	<ul style="list-style-type: none"> • Public reproof • Reprimand • Admonishment • Suspension • Disbarment 	<p>Aggravating:</p> <ul style="list-style-type: none"> • Moral Turpitude • Multiple issues/incidents • Omitted on Moral Character application • Recent (e.g., within the last 5 years) <p>Mitigating:</p> <ul style="list-style-type: none"> • Successfully completed requirements • Length of time since issue • Rehabilitative efforts • No insignificant previous record
Unauthorized Practice of Law		Always		