



The State Bar *of California*

Moral Character Working Group Session Five

Moral Character, Rehabilitation, and Remorse:
Compare and Contrast California and Other
Jurisdictions

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Identified Topics of Discussion

Meeting 2

- Unauthorized Practice of Law
- Abuse of the Legal Process
- Violation of Court Orders/ Respect for the Law
- Professional Obligations/ Discipline
- Fraud
- Candor/ Honesty

Meeting 3

- Honor Code/ Student Conduct Violations
- Prior License Denial
- Past Due Debt/ Financial Responsibility/ Bankruptcy
- Cooperation with the Moral Character Process

Meeting 4

- Criminal History
- Drug/ Alcohol Abuse
- Compliance with Probation
- Lack of Respect for Others

Meeting 5

- Rehabilitation
- Remorse
- ~~Aggravating and Mitigating Factors~~



California Current Language – Rehabilitation

- Moral Character Statement
 - The committee shall exercise its discretion to determine whether applicants ... have produced overwhelming proof of reform and rehabilitation ...
 - The nature and extent of the voluntary rehabilitative activities ...
- Factors Regarding Moral Character Determination
 - The following factors, among others, assist the committee in determining whether an applicant has demonstrated rehabilitation from an act of misconduct or moral turpitude ... (pg. 2 to 3/1-14).



Other Jurisdictions – Rehabilitation

- Arizona
 - The evidence of rehabilitation (pg. 16/4H).
- Colorado
 - Evidence of rehabilitation (pg. 3 to 4).
- Florida
 - Evidence of rehabilitation (pg. 10/3-12 g).
 - Elements of rehabilitation (pg. 10 to 11/3-13 a-g).
- Massachusetts
 - The evidence of rehabilitation (pg. 3/V.1.1).
- Ohio
 - Evidence of rehabilitation (pg. 4/7).
- Texas
 - Evidence of rehabilitation (pg. 6/IX.A-E).



Rehabilitation – Applicable Law/Case Law and Proposed Language for the Statement and Guidelines:

Where there have been serious acts of misconduct, an applicant must establish, “a compelling showing of rehabilitation and truly exemplary conduct over an extended period that would suffice to demonstrate his [or her] fitness for the practice of law.” (*In re Glass* (2014) 58 Cal.4th 500, 522.)

No act of misconduct is an absolute bar to law licensure in California. 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 legal education courses.



California Current Language – Remorse

- Moral Character Statement
 - Not mentioned.
- Factors Regarding Moral Character Determination
 - It should be noted that the testimony of character witnesses alone will not adequately show rehabilitation nor will the applicant's statements of remorse.



Other Jurisdictions – Remorse

- Arizona
 - Not mentioned.
- Colorado
 - Evidence that the applicant has acknowledged the conduct was wrong and has accepted responsibility for the conduct (pg. 4/a).
- Florida
 - Not mentioned.
- Massachusetts
 - Not mentioned.
- Ohio
 - Not mentioned.
- Texas
 - Evidence of genuine remorse and recognition of personal responsibility for past misconduct (pg. 5/VIII.L).



Remorse – Applicable Law/Case Law and Proposed Language for the Statement and Guidelines:

Remorse does not demonstrate rehabilitation. While a candid admission of misconduct and full acknowledgment of wrongdoing may be a necessary step in the process, it is only a first step. (*In re Conflenti* (1981) 29 Cal. 3d 120, 124.)

Remorse alone does not demonstrate rehabilitation; however, a candid admission and full acknowledgement of wrongdoing often is a necessary step in the rehabilitative process.



Sources From Other Jurisdictions

- Arizona, *Rule 36. Procedure Before the Committee on Character and Fitness*
- Colorado, *Character and Fitness Standards and Guidelines*
- Florida, *Rules of the Supreme Court Relating to Admissions to the Bar*
- Massachusetts, *Rules of the Board of Bar Examiners*
- Ohio, *Summary of Character and Fitness Process in Ohio*
- Texas, *Board of Law Examiners Guidelines for Determining Character and Fitness and Overseeing Probationary License Holders*



Next Steps

- Future Meetings:
 - #6 January 23, 2020 – SF
 - Finalize Decisional Matrices
 - Discuss Statement and Guidelines
 - Revisit Suggested Law School Best Practices
 - Continue discussion of the Application for Determination of Moral Character, if needed
 - #7 February 20, 2020 – SF
 - Finalize Statement and Guidelines
 - Finalize Suggested Law School Best Practices
 - Finalize recommendations regarding the moral character application



Next Steps

- Target Dates:
 - Work Product Finalization Date – February 20, 2020
 - Statement and Guidelines, Decisional Matrices, Recommendations regarding the Application for Determination of Moral Character, Suggested Law School Best Practices
 - Seek input of the Supreme Court – March 2020
 - CBE Meeting – April 2020
 - BOT Meeting – May 2020
 - Communicate changes to law schools – June 2020
 - Implementation by staff –
 - June/July 2020 – Public information – website, application, forms
 - August 2020 – Internal documents