

## **SAMPLE LANGUAGE AND APPLICABLE LAW/CASE LAW FROM PAST PRESENTATIONS**

- **Unauthorized Practice of Law** - The unauthorized practice of law (“UPL”) may include, but is not limited to, appearing in court or other tribunals, 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.
- **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.
- **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, or failure to adhere to a restraining order, and other conduct evidencing a lack of respect for the law are relevant to amoral character determination.
- **Professional Obligations/ Discipline** - In making its determination of whether an applicant presently possesses the good moral character necessary for admission to practice law, an applicant’s adherence to, or violation or neglect of professional obligations is relevant to a moral character determination.
- **Fraud** - 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 for a crime in which an intent to defraud is an element.
- **Candor/ Honesty** - 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.
- **Honor Code/ Student Conduct Violations** - Disciplinary action resulting from a violation of university or law school rules of conduct that does not involve moral turpitude or

result in criminal prosecution will not be used as the sole basis for denying an applicant admission to practice law. (Bus. & Prof. Code, § 6060.1.) However, a violation of a school's honor code or student conduct code will be considered when determining if an applicant is of good moral character. Such a violation, 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.

- **Prior License Denial** - An applicant who has reapplied following a negative moral character determination, or who has received a negative moral character determination in another state, 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.
- **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. Still, 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 overwhelming reform and rehabilitation.
- **Cooperation with the Moral Character Process** - An applicant has the burden of establishing that he or she is of good moral character (Rule 4.40 of the Admissions Rules). 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, such as an attorney.
- **Criminal History** - It is the policy of the State Bar 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 showing of overwhelming reform and rehabilitation, which must include, at a minimum, a lengthy period of not only unblemished, but exemplary conduct. Criminal acts not involving moral turpitude, such as 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 and illegal 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.
- 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, 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.
- Lack of Respect for Others - The Rules of the State Bar of California define “good moral character” as including respect for the rights of others, which in turn may include, for example, satisfaction of an adverse civil judgment or payment of restitution to a victim in a criminal matter.
- Rehabilitation - 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. 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, but rather is expected of them.
- Remorse - Remorse alone does not demonstrate rehabilitation; however, a candid admission and full acknowledgement of wrongdoing often is a necessary step in the rehabilitative process.