



# The State Bar *of California*

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## **OPEN SESSION**

### **AGENDA ITEM**

**APRIL 2020**

### **COMMITTEE OF BAR EXAMINERS ITEM O-501**

**DATE:** April 24, 2020

**TO:** Members, Committee of Bar Examiners

**FROM:** Tara Clark, Program Manager, Moral Character Determinations  
David Lane, Attorney, Moral Character Determinations

**SUBJECT:** Presentation and Approval of the Final Documents of the Moral Character Working Group

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#### **EXECUTIVE SUMMARY**

The Moral Character Working Group (MCWG) was created to review and evaluate the existing methodology, develop clear and appropriate standards and guidelines for moral character determinations, ensure greater uniformity and consistency in decision-making, provide transparency into the moral character evaluation process, and ensure that the State Bar provides appropriate consideration for rehabilitative efforts undertaken by applicants. The MCWG offers three documents for review and approval by the Committee of Bar Examiners (CBE). If approved, the documents will be presented to the Board of Trustees for review and approval.

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#### **BACKGROUND**

The Moral Character Working Group (MCWG) was tasked with evaluating the standards applied to moral character determinations. The purpose of the review and evaluation was to analyze the existing methodology, and develop clear and appropriate guidelines for determining whether an applicant possesses the requisite moral character to guide staff in its consideration of moral character applications and in conducting informal conferences, as well as to guide the Committee of Bar Examiners in its review role. The end products of the review are intended to ensure greater consistency in decision-making, provide transparency into the moral character evaluation process, and to ensure that the State Bar provides appropriate consideration for rehabilitative efforts undertaken by applicants.

The MCWG was comprised of seven members: three members of the CBE; three law school deans or their designees, one school of each type of accreditation in California; and the Executive Director of the Stanford Criminal Justice Center. The MCWG met seven times from June 2019 to February 2020.

## **DISCUSSION**

By the conclusion of its seventh meeting, the MCWG finalized three separate yet interrelated work products to achieve the goals of the working group: the Statement and Guidelines, Decision Matrices, and the Best Practices and Talking Points for Law Schools. If approved by the Committee, the documents will be presented to the Board of Trustees for review and approval at its May 2020 meeting. The Office of Admissions proposes to adopt this modified approach, revise necessary policies and procedures, and to make these documents widely available by July 31, 2020.

The Statement and Guidelines lists the governing law, provides an overview of the moral character determination process, and describes factors and conduct relevant to a moral character determination. The Statement and Guidelines, in conjunction with the Decision Matrices, is intended to replace the existing information on the State Bar of California's (State Bar) website. The information will be publically available to create greater transparency into the process, and provide guidance for applicants, law schools, and the State Bar.

The Decision Matrices reflect the methodology to be utilized in completing an analysis of issues relevant to the determination of whether an applicant possesses the requisite moral character for licensure to practice law. The matrices are intended to reflect standards set forth by the California Supreme Court, and other governing law. The utility of the matrices are predicated on the complete and accurate disclosure of relevant facts and the provision of necessary documentation by the applicant.<sup>1</sup>

The Best Practices and Talking Points for Law Schools were developed with the input of law school deans on the MCWG and are intended to assist law schools in advising students or prospective students about the moral character determination process for those seeking admission to the State Bar. They are offered to ensure that law schools feel properly equipped to assist students with the moral character determination process and that law students receive adequate information.

## **RECOMMENDATION**

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<sup>1</sup> The matrix does not contain all moral character values, acts of misconduct, mitigating and aggravating factors, or rehabilitation factors that are relevant to a moral character determination. Applicants are unique and will be considered on their individual merits. Accordingly, the matrix neither binds nor limits the discretion of the decision-makers.

It is recommended that the Committee approve the “Moral Character Determinations Statement and Guidelines,” the “Moral Character Determinations – Decision Matrix,” and the “Moral Character Determinations: Best Practices and Talking Points for Law Schools.”

## **MOTION**

If the Committee agrees with the recommendation, the following motion is suggested:

Move that the Committee Bar Examiners approve the “Moral Character Determinations Statement and Guidelines,” the “Moral Character Determinations – Decision Matrix,” and the “Moral Character Determinations: Best Practices and Talking Points for Law Schools.”

## **ATTACHMENTS LIST**

- A. Moral Character Determinations Statement and Guidelines
- B. Moral Character Determinations – Decision Matrix
- C. Moral Character Determinations: Best Practices and Talking Points for Law Schools



## MORAL CHARACTER DETERMINATIONS STATEMENT AND GUIDELINES

### MISSION AND PURPOSE

The process for making a moral character determination for those seeking admission to the State Bar of California (State Bar) and a license to practice law shall be uniform, consistent with governing law, and transparent. The process shall adhere to best practices and ensure that appropriate consideration is given to rehabilitative efforts undertaken by applicants.

A review of whether an applicant is of good moral character is one of several parts of the process of establishing eligibility for admission to the practice of law in California. Applicants have the burden of establishing the requisite moral character by demonstrating possession of traits critical to the ethical practice of law, such as candor and honesty, and respect for the law and the rights of others.

### GOVERNING LAW

Section 6060 of the Business and Professions Code states:

To be certified to the Supreme Court for admission and a license to practice law, a person who has not been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency or in a foreign country shall:

- (a) . . .
- (b) (1) Be of good moral character.

Section 6062(a) of the Business and Professions Code states:

- (a) To be certified to the Supreme Court for admission, and a license to practice law, a person who has been admitted to practice law in a sister state, United States jurisdiction, possession, territory, or dependency the United States may hereafter acquire shall:
  - (1) . . .
  - (2) Be of good moral character.

A moral character determination is also required for applicants for the Multijurisdictional Practice program (Registered In-House Counsel (Cal. Rules of Court, rule 9.46(c)(2)));

Registered Legal Aid Attorney (Cal. Rules of Court, rule 9.45(c)(2)); and Registered Military Spouse Attorney (Cal. Rules of Court, rule 9.41.1(c)(4)) and for the Registered Foreign Legal Consultant program (Cal. Rules of Court, rule 9.44(c)(2)), referred to as “special admissions.”

Title 4, Division 1, Chapter 4, Rule 4.40 of the *Rules of the State Bar of California (Admissions Rules)* states:

- (A) An applicant must be of good moral character as determined by the State Bar. The applicant has the burden of establishing that he or she is of good moral character.
- (B) “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.

Rule 4.41(A) of the *Admissions Rules* states with respect to an Application for Determination of Moral Character:

An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending or is otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.

## PROCESS

For those applying for admission to the practice of law, an Application for Determination of Moral Character (moral character application) must be completed after registering with the State Bar as a law student or an attorney applicant. The registration application is available on the State Bar’s website at <http://www.calbar.ca.gov/Admissions> or upon request from the Office of Admissions. Applicants are encouraged to file a moral character application at the beginning of the last year of law study or at least eight (8) to ten (10) months prior to the date they wish to be admitted to practice law in California.

For those applying for special admission under the Multijurisdictional Practice program or Registered Foreign Legal Consultant program, an Application for Determination of Moral Character (moral character application) must be completed after registering with the State Bar as an attorney applicant. The registration application is available on the State Bar’s website at <http://www.calbar.ca.gov/Admissions> or upon request from the Office of Admissions. Applicants for special admission must file a moral character application in conjunction with the application for the Multijurisdictional Practice program or Registered Foreign Legal Consultant program.

A moral character application or an Application for Extension of Determination of Moral Character (extension application) generally will be processed in a minimum of 180 days from the file date, unless there are issues in the applicant's background that require further

investigation or review by the State Bar. A positive moral character determination is valid for 36 months, and an applicant with a positive determination who has not yet been certified to practice law within that 36-month period must submit an extension application. If an extension application is not submitted prior to the expiration date of the positive moral character determination, the applicant must file a new moral character application if they wish to pursue admission to the practice of law. (*Admissions Rules*, Rule 4.51.)

All questions on the application must be answered completely and accurately, or the application will be considered incomplete. The application must be signed, the correct fee must be included, and the application must be accompanied by a *Request for Live Scan Service* form completed within the last 90 days or two (2) fingerprint cards completed within the last year. Any application not meeting these requirements is considered incomplete, and it will not be considered filed until it is brought to a complete status. An application submitted in hard copy form must be received in the Los Angeles Office of Admissions within 30 days of the date the application was signed.

It is the applicant's responsibility to become aware of the moral character determination requirements, to read and understand the instructions, to update the application when changes occur, and to timely comply with all requests for further information.

It takes several months to process an application and gather all of the documents needed to finalize a moral character determination. An applicant may check the status of an application by logging into the Applicant Community at [admissions.calbar.ca.gov](https://admissions.calbar.ca.gov) and checking the status screen. In the event an applicant cannot access the Applicant Community, the status of a moral character application may be obtained by calling the State Bar at 800-843-9053 and asking for the assigned moral character person of the day.

An applicant has the burden of establishing that they are of good moral character. (*Admissions Rules*, Rule 4.40.) 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.

### **Factors and Conduct Relevant to a Moral Character Determination**

When considering whether an applicant has the good moral character required for admission to practice law in California, the State Bar evaluates whether the 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. The severity of the issue, length of time since the incident, and the frequency with which an act occurred are all factors that will be taken into consideration. This is a holistic determination; there is no act of misconduct that, in and of itself, automatically disqualifies an individual from obtaining a positive moral character determination. (See *In re Gossage* (2000) 23 Cal.4th 1080,

1094, 1098; *Bernstein v. Committee of Bar Examiners* (1968) 69 Cal.2d 90, 107; see also Decision Matrices.)

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 continuing legal education (CLE) 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 or those seeking to become attorneys, but rather is expected of them. Remorse alone does not demonstrate rehabilitation; however, a candid admission and full acknowledgement of wrongdoing often is a necessary step in the rehabilitative process.

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.

Additional issues relevant to a moral character determination include, but are not limited to:

- Abuse of the Legal Process
- Academic Honor Code/Student Conduct Violations
- Community Supervision
- Criminal History
- Drug/Alcohol Abuse
- Fraudulent Activity
- Lack of Respect for the Rights of Others
- Past Due Debt/Financial Responsibility/Bankruptcy
- Prior License Denial
- Professional Obligations/Discipline
- Unauthorized Practice of Law
- Violation of Court Orders/Respect for the Law

*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.

*Academic Honor Code/Student Conduct Violations* – A violation of a school’s honor code or student conduct code, 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.

*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 by law, 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.

*Criminal History* – There is no criminal act that disqualifies an applicant from receiving a positive moral character determination, given a sufficient showing of rehabilitation. Where serious misconduct occurs, positive inferences about the applicant's moral character are more difficult to draw, and negative character inferences are stronger and more reasonable. When there have been serious acts of moral turpitude, the applicant must demonstrate that he or she behaved in an exemplary fashion over a meaningful period of time. Criminal acts not involving moral turpitude, such as some 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 or other 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.

*Fraudulent Activity* – 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 of a crime in which an intent to defraud is an element.

*Lack of Respect for the Rights of Others* – Examples of acts that may suggest a lack of respect for the rights of others include a failure to satisfy an adverse civil judgment or pay restitution to a victim in a criminal matter, or an infringement upon the rights of another person.

*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. However, 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 reform and rehabilitation, which must include, at a minimum, a lengthy period of not only unblemished, but exemplary conduct.

*Prior License Denial* – An applicant who has reapplied following a negative moral character determination 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.

*Professional Obligations/Discipline* – An applicant’s adherence to, or violation or neglect of professional obligations is relevant to a moral character determination.

*Unauthorized Practice of Law* – The unauthorized practice of law may include, but is not limited to, appearing in court or other tribunals acting as a legal representative for someone else, 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.

*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, failure to adhere to a restraining order, or other conduct evidencing a lack of respect for the law are relevant to a moral character determination.

### **Further Investigation and Informal Conferences**

Once an application is considered filed, the application may be approved or referred for further investigation by the State Bar. Further investigation may include requesting additional information from the applicant or third parties. In the event an application requires further review after the supplemental information and documentation have been obtained, an applicant may be invited to attend an informal conference with the State Bar. The informal conference is intended to provide the State Bar and the applicant an opportunity to discuss the relevant issues and factors present in the moral character application for a determination to be rendered. An applicant may obtain legal counsel to attend and observe the informal conference. Participation in an informal conference is not required and the State Bar will draw no negative inference if the applicant chooses to decline the invitation. However, a determination may be made based on the available information, without the benefit of the informal conference.

A determination will be made subsequent to the informal conference. The decision may include conferral of a positive determination, an offer of abeyance, re-referral for further investigation, deferral, or the denial of a positive moral character determination. (See Procedures Governing Informal Conferences for more information.)

An applicant notified of an adverse determination of moral character by the State Bar may file a written request for administrative review by the Committee of Bar Examiners (Committee) within 30 days of the date of the notice of the State Bar’s determination. (See Procedures Regarding Requests For Administrative Review by the Committee of Bar Examiners of Adverse Determinations of Moral Character.)

An applicant notified of an adverse determination of moral character by the Committee may file a request for hearing on the determination with the State Bar Court within 30 days of the notice of the Committee's determination pursuant to the applicable Admissions Rules (*Admissions Rules*, rule 4.47) and the Rules of Procedure of the State Bar (*Rules Proc. of the State Bar*, rule 5.460 et seq.).

## Decision Matrices

The Decision Matrices reflect the methodology typically utilized by the State Bar in completing an analysis of issues relevant to the determination of whether an applicant possesses the requisite moral character for licensure to practice law. The matrices do not contain an exhaustive list of issues and examples relevant to a moral character determination. Applicants are unique and will be considered on their individual merits. Accordingly, the matrices neither bind nor limit the discretion of the decision-makers and are for informational purposes only. The severity of an act of misconduct, length of time since the act, and the frequency with which the act occurred will be taken into consideration.

The matrices are organized by values referred to in the definition of good moral character. (*Admissions Rules*, Rule 4.40.) Each matrix contains issues related to the relevant moral character value that may arise during the investigation of a moral character application, and the possible outcomes. (See Decision Matrices.)

### Decision Matrices by Value:

- Honesty, Fairness, Candor, Trustworthiness
- Observance of Fiduciary Responsibility and/or Financial Responsibility
- Respect for and Obedience to the Law
- Respect for the Rights of Others and the Judicial Process

## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Respect for and Obedience to the Law	Additional Inquiry Seldom Needed	Additional Inquiry May be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
<b>Felony Conviction</b>	<ul style="list-style-type: none"> <li>One conviction, expunged pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character, no aggravating factors</li> <li>Non-violent, more than five years ago, no subsequent convictions, no aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>Not expunged pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character</li> <li>Violent</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> <li>Conviction involving moral turpitude<sup>1</sup></li> </ul>	<p>The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. Following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:</p> <ul style="list-style-type: none"> <li>Role of applicant</li> <li>Age of applicant at time of offense</li> <li>Social factors of applicant</li> <li>Time since offense</li> <li>Intent</li> <li>Remorse, insight, accountability</li> <li>Completion of restorative justice</li> <li>Honorable discharge from military</li> <li>Successful completion of parole, probation, community supervision</li> <li>Completion of education, vocation, rehabilitation programs while incarcerated</li> </ul>
<b>Conviction for Drug Sales or Possession</b>	<ul style="list-style-type: none"> <li>Sealed via deferred entry of judgment for first time drug user under Penal Code section 1001, no aggravating factors</li> <li>Dismissed and expunged under Cal. Penal Code § 1210.1 (codifying Prop. 36) or a similar statute</li> </ul>	<ul style="list-style-type: none"> <li>Drug Sales, one or more convictions</li> <li>Possession, multiple convictions</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	

<sup>1</sup> An act of misconduct involves moral turpitude if it shows a deficiency in any character trait necessary for the practice of law—such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties—or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge an attorney engaged in the misconduct would likely undermine public confidence in and respect for the legal profession. (See *In re Lesansky* (2001) 25 Cal.4th 11, 16.)

This decisional matrix reflects the methodology typically utilized by the State Bar of California in completing an analysis of issues relevant to the determination of whether an applicant possesses the requisite moral character for licensure to practice law. The matrix is intended to reflect standards set forth by the California Supreme Court, and other governing law. The utility of the matrix is predicated on the complete and accurate disclosure of relevant facts and the provision of necessary documentation by the applicant. The matrix does not contain all moral character values, acts of misconduct, mitigating and aggravating factors, or rehabilitation factors that are relevant to a moral character determination. Applicants are unique and will be considered on their individual merits. Accordingly, the matrix neither binds nor limits the discretion of the decision-makers.

## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Respect for and Obedience to the Law	Additional Inquiry Seldom Needed	Additional Inquiry May be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
	that permits non-disclosure to a state bar, no aggravating factors			<ul style="list-style-type: none"> <li>Community service beyond what is required by court</li> <li>Payment of fines, restitution, other financial obligations</li> <li>Conviction for conduct that has been legalized</li> <li>Rehabilitation related to factors that contributed to the offense</li> <li>Record sealed, expunged, dismissed</li> <li>Pattern of misconduct</li> <li>Attempt to conceal or mislead</li> <li>Type of offense (for example, offenses involving a breach of trust, great bodily harm, cruelty, or abuse of authority may be particularly relevant to moral character)</li> <li>Number and type of victims</li> </ul>
<b>Alcohol or Drug-related Misdemeanor Conviction</b>	<ul style="list-style-type: none"> <li>One conviction, no aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>One conviction, aggravating factors</li> <li>Multiple convictions</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> <li>Aggravating factors</li> </ul>	
<b>Adult Misdemeanor Conviction</b>	<ul style="list-style-type: none"> <li>Expunged, dismissed, or sealed pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character, no aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>Not expunged, dismissed, or sealed pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> <li>Within five years, aggravating factors</li> <li>Conviction involving moral turpitude [see footnote 1]</li> </ul>	
<b>Vehicle Code Misdemeanor Conviction</b>	<ul style="list-style-type: none"> <li>Reckless driving that was not drug- or alcohol-related or failure to appear, more than five years ago</li> <li>Driving without a license, driving with a suspended license, or speeding; no aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>Hit and run</li> <li>Occurred in or after law school</li> <li>Aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Respect for and Obedience to the Law	Additional Inquiry Seldom Needed	Additional Inquiry May be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
<b>Juvenile Misdemeanor or Felony Conviction</b>	<ul style="list-style-type: none"> <li>Occurred at age fifteen or younger, no aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>Occurred between ages sixteen and eighteen</li> <li>Theft- or gun-related</li> <li>Convictions for things such as, but not limited to: joyriding, vandalism, stalking, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	
<b>Vehicle Code Infraction</b>	<ul style="list-style-type: none"> <li>Seldom relevant if no aggravating factors exist</li> </ul>	<ul style="list-style-type: none"> <li>Seldom relevant if no aggravating factors exist</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	
<b>Municipal Code Violation</b>	<ul style="list-style-type: none"> <li>Seldom relevant if no aggravating factors</li> <li>Violations such as, but not limited to: excessive garbage, overgrown weeds</li> </ul>	<ul style="list-style-type: none"> <li>Seldom relevant if no aggravating factors</li> <li>Violations such as, but not limited to: indecent exposure, possession of open container of alcohol</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Honesty, Candor, Trustworthiness, Fairness	Additional Inquiry Seldom Needed	Additional Inquiry May Be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
<b>Fraudulent Activity</b>	N/A	<ul style="list-style-type: none"> <li>Allegations of fraud</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> <li>Amount of financial loss considered</li> </ul>	<p>The length of time since an act of misconduct, the severity of the misconduct, and the number and frequency of acts of misconduct are given significant consideration. Following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:</p> <ul style="list-style-type: none"> <li>Role of applicant</li> <li>Age of applicant at time of misconduct</li> <li>Social factors of applicant</li> <li>Time since misconduct</li> <li>Intent</li> <li>Remorse, insight, accountability</li> <li>Payment of fines, restitution, other financial obligations</li> <li>Rehabilitation related to misconduct</li> <li>Pattern of misconduct</li> <li>Attempt to conceal or mislead</li> <li>Job termination due to severe or pervasive behavior</li> <li>Financial or emotional impact on victim</li> <li>Misconduct involving abuse of authority</li> <li>Number and type of victims</li> </ul>
<b>Omission or Mischaracterization on Application to the State Bar, Law School, Other Licensing Agency</b>	<ul style="list-style-type: none"> <li>Resulting from mistake or error</li> </ul>	<ul style="list-style-type: none"> <li>Minor omission</li> </ul>	<ul style="list-style-type: none"> <li>Material Omission</li> </ul>	
<b>Denial of Admission to the Practice of Law</b>	N/A	<ul style="list-style-type: none"> <li>Any denial</li> </ul>	<ul style="list-style-type: none"> <li>Denial based on substantive factors or moral character considerations</li> <li>Previous adverse moral character determination in California</li> </ul>	
<b>Admission or License Denial for a Non-legal Profession</b>	N/A	<ul style="list-style-type: none"> <li>Any denial</li> </ul>	<ul style="list-style-type: none"> <li>Denial based on substantive factors or moral character considerations</li> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Honesty, Candor, Trustworthiness, Fairness	Additional Inquiry Seldom Needed	Additional Inquiry May Be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
Honor Code or Conduct Code Violation in Law School	<ul style="list-style-type: none"> <li>Academic dismissal due to low GPA</li> </ul>	<ul style="list-style-type: none"> <li>Minor violation as defined by the school</li> </ul>	<ul style="list-style-type: none"> <li>Serious violation as defined by the school</li> <li>Serious sanction or punishment imposed</li> </ul>	
Honor Code or Conduct Code Violation in Undergraduate or Post-graduate Institution	<ul style="list-style-type: none"> <li>Academic dismissal due to low GPA</li> </ul>	<ul style="list-style-type: none"> <li>Minor violation as defined by the school</li> </ul>	<ul style="list-style-type: none"> <li>Serious violation as defined by the school</li> </ul>	
Job Termination	<ul style="list-style-type: none"> <li>Layoff</li> <li>Termination without cause</li> </ul>	<ul style="list-style-type: none"> <li>Termination with cause for things such as, but not limited to, violation of company policy</li> </ul>	<ul style="list-style-type: none"> <li>Termination with cause for things such as, but not limited to, violation of law</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Observance of Fiduciary and Financial Responsibility	Additional Inquiry Seldom Needed	Additional Inquiry May Be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
<b>Breach of Fiduciary Duty</b>	<ul style="list-style-type: none"> <li>Complaint deemed unsubstantiated, not sustained</li> </ul>	<ul style="list-style-type: none"> <li>Sustained or pending complaint</li> </ul>	<ul style="list-style-type: none"> <li>Sustained or pending complaint, aggravating factors exist</li> </ul>	<p>The length of time since an act of misconduct, the severity of the misconduct, and the number and frequency of acts of misconduct are given significant consideration. Following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:</p> <ul style="list-style-type: none"> <li>Role of applicant</li> <li>Age of applicant at time of misconduct</li> <li>Social factors of applicant</li> <li>Time since misconduct</li> <li>Intent</li> <li>Remorse, insight, accountability</li> <li>Nature of past due debt (for example, a debt incurred to pay for needed medical care may not reflect on moral character as a debt incurred for another reason)</li> <li>Payment of fines, restitution, other financial obligations</li> <li>Payment plan in place</li> <li>Compliance with payment agreement</li> <li>Rehabilitation related to misconduct</li> <li>Currently financially responsible</li> <li>Adverse judgment presently on appeal</li> <li>Failure to address debt or judgment</li> </ul>
<b>Unpaid, Past Due State or Federal Income Taxes</b>	<ul style="list-style-type: none"> <li>Mistake or error</li> <li>Old, not outstanding for a sustained period of time, now in compliance</li> </ul>	<ul style="list-style-type: none"> <li>Civil penalty or financial settlement</li> </ul>	<ul style="list-style-type: none"> <li>Criminal conviction for fraud or tax evasion</li> </ul>	
<b>Bankruptcy</b>	<ul style="list-style-type: none"> <li>No objections, discharged</li> </ul>	<ul style="list-style-type: none"> <li>Objections that were dismissed</li> </ul>	<ul style="list-style-type: none"> <li>Findings of fraud, revocation of discharge, objections that were sustained</li> </ul>	
<b>Past Due Debt, Debt in Collections</b>	<ul style="list-style-type: none"> <li>Current debt, not past due</li> </ul>	<ul style="list-style-type: none"> <li>In collections</li> <li>Default on loans</li> <li>One or more unsatisfied judgments</li> </ul>	<ul style="list-style-type: none"> <li>Numerous suits filed to recover significant debts</li> <li>One or more significant unsatisfied judgments, no attempts to satisfy</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Observance of Fiduciary and Financial Responsibility	Additional Inquiry Seldom Needed	Additional Inquiry May Be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
				<ul style="list-style-type: none"> <li>• Pattern of misconduct</li> <li>• Attempt to conceal or mislead</li> <li>• Number and type of victims</li> <li>• Finding of contempt of court</li> <li>• Misconduct involving abuse of authority</li> </ul>

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Seldom Needed	Additional Inquiry May Be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
Unauthorized Practice of Law	N/A	<ul style="list-style-type: none"> <li>Any allegation</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	<p>The length of time since an act of misconduct, the severity of the misconduct, and the number and frequency of acts of misconduct are given significant consideration. Following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:</p> <ul style="list-style-type: none"> <li>Time since offense</li> <li>Intent</li> <li>Remorse, insight, accountability</li> <li>Rehabilitation related to misconduct</li> <li>Meritorious nature of applicant's involvement in litigation or administrative action</li> <li>Favorable termination of litigation or administrative action</li> <li>Prior record</li> <li>Engagement in type of business or enterprise that typically experiences recurrent litigation</li> <li>Pattern of misconduct</li> <li>Attempt to conceal or mislead</li> <li>Number and type of victims</li> </ul>
Malpractice (Attorney)	N/A	<ul style="list-style-type: none"> <li>Any allegation</li> </ul>	<ul style="list-style-type: none"> <li>Multiple allegations</li> </ul>	
Professional Discipline (Attorney)	N/A	<ul style="list-style-type: none"> <li>Discipline imposed</li> </ul>	<ul style="list-style-type: none"> <li>Public reproof, reprimand, admonishment, suspension, disbarment</li> </ul>	
Professional Complaint (Attorney)	<ul style="list-style-type: none"> <li>No action taken by agency</li> </ul>	<ul style="list-style-type: none"> <li>Adverse action against the attorney taken by the licensing agency</li> <li>One or more</li> </ul>	<ul style="list-style-type: none"> <li>Multiple complaints</li> <li>Finding of malpractice or other wrongful conduct [see malpractice]</li> </ul>	
Court Sanctions	N/A	<ul style="list-style-type: none"> <li>Any</li> </ul>	<ul style="list-style-type: none"> <li>Multiple instances</li> <li>For conduct involving dishonesty</li> </ul>	
Malpractice (Non-legal Profession)	N/A	<ul style="list-style-type: none"> <li>Any allegation of malpractice in a profession other than law</li> </ul>	<ul style="list-style-type: none"> <li>Multiple allegations</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Seldom Needed	Additional Inquiry May Be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
<b>Professional Discipline (Non-legal Profession)</b>	N/A	<ul style="list-style-type: none"> <li>Any disciplinary action imposed in a profession other than law</li> </ul>	<ul style="list-style-type: none"> <li>Public reproof, reprimand, admonishment, suspension, disbarment</li> </ul>	<ul style="list-style-type: none"> <li>Designation of applicant as vexatious litigant</li> <li>Finding of contempt of court</li> <li>Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation</li> <li>Judicial designation of administrative claim as frivolous</li> <li>Judicial finding of malpractice</li> <li>Imposition of punitive damages against applicant</li> <li>Misconduct involving moral turpitude (see footnote 1)</li> <li>Omission or failure to notify other regulatory agencies or jurisdictions</li> <li>Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law</li> <li>Financial impact on victim</li> </ul>
<b>Professional Complaint (Non-legal Profession)</b>	<ul style="list-style-type: none"> <li>No action taken by agency</li> </ul>	<ul style="list-style-type: none"> <li>Adverse action against the professional taken by licensing agency</li> <li>Multiple complaints</li> </ul>	<ul style="list-style-type: none"> <li>Numerous professional complaints</li> <li>Finding of malpractice or other wrongful conduct [see malpractice]</li> </ul>	
<b>Military Discipline</b>	<ul style="list-style-type: none"> <li>Conduct did not result in non-judicial punishment, court-martial determination of guilt, or administrative discharge</li> </ul>	<ul style="list-style-type: none"> <li>Conduct resulted in non-judicial punishment, court-martial determination of guilt, or administrative discharge</li> </ul>	<ul style="list-style-type: none"> <li>Contingent on outcome of additional inquiry and totality of the circumstances</li> </ul>	
<b>Civil Action</b>	<ul style="list-style-type: none"> <li>Family Law case such as, but not limited to, a dissolution; no support obligation; no aggravating factors</li> <li>Other civil case such as, but not limited to: contract, landlord/tenant, personal injury; applicant is</li> </ul>	<ul style="list-style-type: none"> <li>Family Law ongoing support orders, ongoing restraining orders</li> <li>Other civil case, applicant is defendant or respondent, no aggravating factors</li> <li>Applicant is plaintiff, aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>Claims of violation of court orders or non-payment, unsatisfied judgments [see past due debt]</li> <li>Excessive number of cases or numerous adverse judgments</li> <li>Entry of judgment for serious misconduct</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS – DECISION MATRIX

Respect for the Rights of Others & the Judicial Process	Additional Inquiry Seldom Needed	Additional Inquiry May Be Needed	Informal Conference May Be Needed	Mitigation, Aggravation, Rehabilitation
	plaintiff; no aggravating factors <ul style="list-style-type: none"> <li>• Party to fewer than five cases</li> </ul>	<ul style="list-style-type: none"> <li>• Party to more than five cases</li> </ul>		
<b>Administrative Proceeding, Adjudication, Action</b>	<ul style="list-style-type: none"> <li>• One administrative action, four or more years ago, with the Department of Motor Vehicles or State Unemployment Insurance Board</li> <li>• Other administrative action, fewer than five actions, no aggravating factors</li> </ul>	<ul style="list-style-type: none"> <li>• Multiple actions, less than four years ago, with the Department of Motor Vehicles or State Unemployment Insurance Board</li> <li>• Other administrative action, more than five actions</li> </ul>	<ul style="list-style-type: none"> <li>• Occurred less than one year ago with the Department of Motor Vehicles or State Unemployment Board</li> <li>• Excessive number of other administrative actions</li> <li>• Adverse administrative determination against the applicant for serious misconduct</li> </ul>	

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## MORAL CHARACTER DETERMINATIONS: BEST PRACTICES AND TALKING POINTS FOR LAW SCHOOLS

These best practices and talking points were developed with the input of law school deans on the Moral Character Working Group and are intended to assist law schools in advising students or prospective students about the moral character determination process for those seeking admission to the State Bar of California (State Bar). They are provided to ensure that law schools feel properly equipped to assist students with the moral character determination process and that law students receive adequate information.

### GENERAL INFORMATION AND GUIDANCE

- Law schools report greatest consistency and best information sharing when a specific person is designated as a point-of-contact for students with questions related to the moral character determination process.
- Law schools may refer students or prospective students to the materials related to moral character on the State Bar's website at <http://www.calbar.ca.gov/Admissions> to best learn about the moral character determination process prior to beginning the moral character application.
- Law schools are encouraged to clarify issues or questions related to moral character with the State Bar by contacting the assigned moral character person of the day at 800-843-9053.
- Prior to matriculation or during orientation, law schools have found it helpful to inform students that each jurisdiction has its own requirements for admission to the practice of law and the requirements likely include a moral character determination or a character and fitness assessment. Law schools are encouraged to inform students of the admissions requirements specific to California and to urge students to research the jurisdictions in which they will be seeking admission.
- Law schools may suggest that students begin collecting information and documentation for the moral character application well in advance of the date by which they wish to submit an application to ensure the necessary information has been obtained.
- Law schools should repeatedly remind students that it is the applicant's responsibility to become aware of the moral character determination requirements, to read and understand the instructions, to update the application when changes occur, and to timely comply with all requests for further information.

## **TIMELINE**

- The moral character process may take a minimum of six months (180 days) to complete, so early submission is strongly encouraged.
- It is the State Bar's goal to notify an applicant if a moral character application is deemed complete and therefore in "filed" status, or incomplete, within 60 days of submission.
- The initial processing time may vary based on the time of year, as the volume of applications fluctuates.
- If a moral character application is considered incomplete, a student has sixty (60) days to remedy the deficiencies or the application will be deemed abandoned.
- If additional information is requested after the application is considered complete and filed, a student has ninety (90) days to comply with the request or the application will be deemed abandoned.

## **PROVIDING INFORMATION AND DOCUMENTATION**

- Students should respond to each question completely, accurately, and to the best of their ability.
- Students should contact applicable entities to obtain the necessary documentation, such as the court, arresting agency, or other licensing agency.
- If documentation cannot be obtained, a student may submit a letter from the entity stating the reason the documentation is unavailable.
- At the time the moral character application is submitted, applicants may submit supplemental narratives to provide additional information, such as the rehabilitative activities in which the applicant has engaged.

## **CONCERNS REGARDING INFORMAL CONFERENCES**

- Attendance at an informal conference is not mandatory, but it provides students an opportunity to further discuss and clarify their backgrounds.
- A student may retain legal counsel to attend an informal conference with them, but counsel is not required and may only observe, rather than participate in, the conference.

## **CONCERNS REGARDING PAST SERIOUS MISCONDUCT**

- There is no act of misconduct that, in and of itself, automatically disqualifies an applicant from obtaining a positive moral character determination.
- Candor, honesty, and rehabilitation are given significant weight in consideration of an application.
- The rehabilitation standard suggests rehabilitative activities, such as community service or participation in rehabilitative programs.
- A very small number of applicants are denied a positive moral character determination each year.

- Applicants who are denied a positive moral character determination have avenues for appeal and are allowed to reapply after a specified period of time.

**FOR QUESTIONS THAT CANNOT BE ANSWERED BY LAW SCHOOL PERSONNEL**

- Direct the student to submit an inquiry in the Applicant Portal at [admissions.calbar.ca.gov](https://admissions.calbar.ca.gov) or call the State Bar 800-843-9053 and ask to speak with the assigned moral character person of the day.