



# The State Bar *of California*

## CALIFORNIA PARAPROFESSIONAL PROGRAM WORKING GROUP

Date: February 26, 2021

To: California Paraprofessional Program Working Group

From: Julia Brynelson, Stephen Hamilton, Judge Michael Harper, and Claudia Torres-Ambriz

Subject: Recommendations for Licensing Requirements for Paraprofessional Program

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### Executive Summary

The California Paraprofessional Program Working Group (CPPWG) is charged with developing recommendations for consideration by the Board of Trustees for the creation of a paraprofessional licensure/certification program to increase access to legal services in California. The CPPWG's charter is informed by the [California Justice Gap Study](#) and the [Task Force on Access Through Innovation of Legal Services](#). In carrying out its charge, the CPPWG must balance the dual goals of ensuring public protection and increasing access to legal services. The CPPWG's recommendations to the Board will include, among other topics, the requirements for paraprofessional licensing.

### Discussion

At the October 29, 2020, meeting, the Licensing Subcommittee presented preliminary recommendations for paraprofessional licensing requirements, including prerequisites for entry into the program; educational standards for paraprofessional training programs; practical/experiential training requirements; and testing. Written and oral public comment was provided in response to these preliminary recommendations. The CPPWG also provided feedback and suggestions. At the December 17, 2020, CPPWG meeting, the Subcommittee presented revised recommendations informed by the feedback at the October meeting.

The Licensing Subcommittee met several times after the December 17 meeting to consider topics that were the subject of feedback at that meeting, including moral character determination requirements and educational requirements regarding trauma-informed representation. The Subcommittee considered feedback Board of Trustees provided at its January 21, 2021, meeting, in response to CPPWG Chair Justice Ioana Petrou's presentation, and considered suggestions from the Pilot Implementation Subcommittee regarding the

potential impact on the success of the program of the licensing requirements under consideration.

### **Moral Character Determination Process**

The recommendations presented in both October and December provided for an exclusion from paraprofessional licensure due to denial of admission to the State Bar of California due to moral character or background check information. Feedback provided at the December meeting included a suggestion that the Licensing Subcommittee consider whether denial of admission based on moral character findings in any state should be considered as a basis for exclusion from paraprofessional licensure.

The Subcommittee met with Ms. Tara Clark, Program Manager in the State Bar's Office of Moral Character Determinations. Ms. Clark explained that some states deny moral character applications for reasons that are not a basis for denial in California. Attachment A provides a summary of Character and Fitness Determinations in each state.<sup>1</sup>

Ms. Clark reviewed the procedures used by the State Bar in making moral character determinations; she explained that applicants are sometimes asked to provide additional information, and that they are afforded an informal conference if an adverse finding is under consideration by the State Bar. Applicants may appeal an adverse moral character determination to the State Bar Court and the Supreme Court. The Subcommittee reviewed the following documents and information related to this process:

- Moral Character Determination Guidelines (Attachment B)
- State Bar Rules 4.40 – 4.51 (Attachment C)
- California Rule of Court Rule 9.13 (Attachment D)

Based on the information provided by Ms. Clark, and understanding that some states' moral character determinations include factors that would not be considered dispositive in California, the Licensing Subcommittee recommends that the paraprofessional program's moral character requirements and rules mirror the requirements and rules for California attorneys.

### **Trauma-Informed Training**

At the December CPPWG meeting, the Licensing Subcommittee included a recommendation that paraprofessionals licensed in the family law practice area be required to complete educational training in trauma-informed representation. Feedback at that meeting included a suggestion that this requirement should not be limited to the family law practice area, but should instead be required for all paraprofessionals.

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<sup>1</sup> Excerpted from *2020 Comprehensive Guide to Bar Admission Requirements*. National Conference of Bar Examiners & American Bar Association Section of Legal Education and Admissions to the State Bar.  
[https://www.ncbex.org/assets/BarAdmissionGuide/CompGuide2020\\_021820\\_Online\\_Final.pdf](https://www.ncbex.org/assets/BarAdmissionGuide/CompGuide2020_021820_Online_Final.pdf)

The Subcommittee met with Ms. Claudia Peña, who teaches a course on this topic at UCLA Law School: [Re-envisioning the Lawyer's Role: Trauma Informed Lawyering and Restorative/Transformative Justice](#). Ms. Peña encouraged the Subcommittee to include trauma-informed training as a requirement for all paraprofessionals, saying that such training would assist in representation of clients, regardless of the client's legal issues. The Subcommittee also reviewed an article recommending the inclusion of trauma-informed training in law school clinics.<sup>2</sup> Based on the information provided by Ms. Peña and our review of this article, the Subcommittee recommends the inclusion of this training for all paraprofessionals.

### **Incentives for Supervision of Paraprofessional Applicants**

The Subcommittee discussed the need to ensure that experiential training opportunities will be available to aspiring paraprofessional licensees. The Subcommittee recommends that the following incentives be provided, to encourage supervision:

- Incentives for Supervising Attorneys
  - 1 hour CLE per 125 hours of supervision provided
  - CLE credit allowed for each person supervised
  - Online directory showing attorneys who have provided supervision to licensed paraprofessionals
- Incentives for Legal Services Programs
  - Funding provided for paraprofessional internships

The Subcommittee invites suggestions for additional incentives from the CPPWG, members of the legal community, and members of the public.

### **Waive-Out Option for Educational Requirements**

The Subcommittee considered feedback provided by the Board of Trustees at its January 21, 2021, meeting in response to CPPWG Chair Justice Petrou's update. Members of the Board voiced concerns that the education and training requirements for participation in the program might be excessive, since candidates for the program will have completed either a law school or paralegal education, and might serve as a deterrent to participation. In the interest of expediting the availability of paraprofessional to fill the identified need for legal services the Board urged the Licensing Subcommittee to reconsider the educational and training requirements.

The Subcommittee also reviewed an email from Judge Yew, written on behalf of the Pilot Implementation Subcommittee, which included a recommendation to balance education, experience, and testing requirements to allow for a sufficiently large pool of candidates for a pilot program rollout. The recommendation included options for candidates to waive out of the program's coursework and experience requirements by demonstrating that they had met those

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<sup>2</sup> Sarah Katz & Deeya Halder, "The Pedagogy of Trauma-Informed Lawyering," 22 Clinical L. Rev. 359 (2015–2016). [https://www.law.nyu.edu/sites/default/files/upload\\_documents/Katz%20-%20Halder%20Pedagogy%20of%20Trauma-Informed%20Lawyering.pdf](https://www.law.nyu.edu/sites/default/files/upload_documents/Katz%20-%20Halder%20Pedagogy%20of%20Trauma-Informed%20Lawyering.pdf)

requirements prior to entry in the program, or by passing the professional responsibility and relevant practice area exams. Judge Yew's email with recommendations from the Pilot Implementation Subcommittee is provided as Attachment E.

After reviewing the recommendations from the Pilot Implementation Subcommittee, the Licensing Subcommittee recommends that paraprofessional candidates be allowed to waive out of course requirements if they have completed the relevant coursework in the course of their law school or paralegal education. We also recommend that experience obtained through working as a paralegal or in law school clinical programs qualify toward the program's experience requirements, subject to certification by a supervising attorney or law school instructor that the experience meets the specified criteria.

The following table provides a summary of the recommendations from the Licensing Subcommittee.

Requirement	Recommendations
<b>Educational Prerequisites</b>	<p>JD or LLM degree from ABA or California Accredited or Registered law school; or Paralegal qualified under Business and Professions Code § 6450(c)</p> <ul style="list-style-type: none"> <li>• The State Bar will review applications to determine eligibility.</li> </ul>
<b>Educational Requirements</b>  <b>[In addition to prerequisites set forth above]</b>	<p>All practice areas</p> <ul style="list-style-type: none"> <li>• 3 credit hours Ethics and Professional Responsibility, including practice management and recognition and elimination of bias in the legal profession</li> <li>• 3 credit hours Pretrial Discovery and Evidence [practical and not theoretical]</li> <li>• 3 credit hours Court Procedure</li> <li>• 3 credit hours Court Advocacy</li> <li>• 1 unit trauma-informed representation</li> </ul> <p>Subject matter specific credits, including theoretical and practical</p> <ul style="list-style-type: none"> <li>• Family Law: 9 credit hours <ul style="list-style-type: none"> <li>○ 3 credit hours Family Law and Procedure <ul style="list-style-type: none"> <li>▪ These credits may be satisfied by passing a test that covers the subject matters addressed in this course.</li> </ul> </li> <li>○ 3 credit hours Advanced Family Law and Procedure, with a focus on helping self-represented parties for hearings and trial</li> </ul> </li> <li>• Credit hours to be set based on the number of course hours projected to achieve competency in specific practice areas</li> </ul> <p><i>Coursework taken as part of a law school or paralegal program may satisfy the educational requirements set out above.</i></p>

Requirement	Recommendations
<b>Practical Training (Experiential)</b>	<div> <div> Requirements for Students <ul style="list-style-type: none"> <li>• 1,000 hours over a minimum of 6 months</li> <li>• 500 hours must be in practice area in which paraprofessional will be licensed</li> <li>• Must include trauma-informed training</li> </ul> Each Practice Area Subcommittee to identify specific requirements </div> <div> Requirements for Supervisors <ul style="list-style-type: none"> <li>• Active licensee for ≥ 4 years</li> <li>• Provide training and counsel</li> <li>• Assume responsibility for applicant's activities</li> <li>• Approve and sign documents prepared for clients</li> <li>• Submit written declaration certifying applicant's experience and training</li> </ul> Supervision ≤ 5 applicants at a time </div> <div> Supervision incentives: <ul style="list-style-type: none"> <li>• 1 hour CLE per 125 hours of supervision provided <ul style="list-style-type: none"> <li>◦ CLE credit allowed for each person supervised</li> </ul> </li> <li>• Online directory showing attorneys who have provided supervision to licensed paraprofessionals</li> <li>• Funding provided to legal services programs for paraprofessional internships</li> </ul> </div> </div> <p><i>Experience working as a paralegal or in a law school clinic may satisfy the experience requirements set out above, subject to certification by the supervising attorney or law clinic instructor that it meets the specified criteria.</i></p>
<b>Testing</b>	<ul style="list-style-type: none"> <li>• Subject matter specific testing <ul style="list-style-type: none"> <li>◦ Subject matter subcommittees to recommend specific elements and parameters of testing</li> </ul> </li> <li>• Professional Responsibility Exam modeled after attorney exam</li> <li>• Tests to be developed and administered by State Bar</li> </ul>
<b>Moral Character &amp; Background Check</b>	<ul style="list-style-type: none"> <li>• Fingerprinting &amp; background check equivalent attorney requirements</li> <li>• Not disbarred or resigned with charges pending in any jurisdiction</li> <li>• Moral character determination requirements to mirror attorney requirements</li> </ul>

## Next Steps

### Educational Requirements

Each practice area subcommittee will develop practice area-specific educational requirements, for incorporation into the program's licensing requirements.

**Waiver Process**

The waiver process will require the development of educational standards for curriculum, specifying the components for each required course. Law schools and paralegal programs will be required to provide course descriptions for review, to ensure that the completion of the courses will allow for a waiver for the specified educational requirement. This process will require State Bar staffing resources to review waiver requests from applicants, to ensure that coursework complies with relevant requirements.

Jurisdiction	Does your jurisdiction have published character and fitness standards?*		Will a felony conviction bar an applicant from admission?		Does a separate entity evaluate character and fitness?		Must bar exam applicants be approved for character and fitness in your jurisdiction before they sit for the bar exam?		Do your rules provide for conditional admission?		What categories of conditional admission do your rules permit?					Does your jurisdiction have a structured program for deferring admission?	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Substance abuse	Mental disability	Debt	Criminal history	Other	Yes	No
Alabama		X		X	X			X		X							X
Alaska	X			X		X		X		X							X
Arizona	X			X		X		X	X		X	X	X	X	X		X
Arkansas	X			X		X		X		X						X	
California	X			X		X		X		X						X	
Colorado	X			X		X		X		X							X
Connecticut	X			X		X		X	X		X	X					X
Delaware	X			X		X		X		X							X
District of Columbia		X		X		X		X		X							X
Florida	X			X		X		X	X		X	X				X	
Georgia	X			X	X		X			X							X
Hawaii		X		X		X		X		X							X
Idaho	X			X		X	X		X		X	X	X	X	X		X
Illinois	X			X	X			X	X		X	X	X				X
Indiana	X			X	X			X	X		X	X	X	X	X	X	
Iowa		X		X		X	X			X							X
Kansas	X		X			X	X			X							X
Kentucky	X			X	X		X		X		X	X	X	X	X		X
Louisiana	X			X	X			X	X		X	X	X	X	X		X
Maine		X		X		X		X	X								X
Maryland		X		X	X			X		X							X
Massachusetts	X			X		X		X		X							X
Michigan	X			X	X			X		X							X
Minnesota	X			X		X		X	X		X	X	X	X	X	X	
Mississippi	X		X		X		X			X							X
Missouri	X			X		X		X		X							X
Montana	X			X	X		X		X		X	X	X	X	X		X
Nebraska	X			X		X		X	X		X	X	X	X	X		X
Nevada	X			X	X			X	X		X	X	X	X	X	X	
New Hampshire	X			X	X			X		X							X
New Jersey	X			X	X			X	X		X	X	X	X	X		X
New Mexico	X			X		X		X	X		X	X	X	X	X		X
New York		X		X	X			X		X							X
North Carolina	X			X		X		X		X							X
North Dakota	X			X		X		X	X		X	X	X	X	X		X
Ohio	X			X	X		X			X							X

\*While every jurisdiction evaluates the character and fitness of applicants for admission, not all publish codified standards under which they do so.

(continued)

## CHART 2: Character and Fitness Determinations (*continued*)

Jurisdiction	Does your jurisdiction have published character and fitness standards?*		Will a felony conviction bar an applicant from admission?		Does a separate entity evaluate character and fitness?		Must bar exam applicants be approved for character and fitness in your jurisdiction before they sit for the bar exam?		Do your rules provide for conditional admission?		What categories of conditional admission do your rules permit?					Does your jurisdiction have a structured program for deferring admission?	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Substance abuse	Mental disability	Debt	Criminal history	Other	Yes	No
Oklahoma		X		X		X		X		X							X
Oregon	X			X		X		X	X		X	X	X	X	X		X
Pennsylvania		X		X		X		X		X							X
Rhode Island	X			X	X		X		X		X		X				X
South Carolina	X			X	X			X		X							X
South Dakota	X			X		X		X	X		X	X	X				X
Tennessee		X		X		X		X	X		X	X	X	X	X		X
Texas	X		X			X		X	X		X	X	X	X	X		X
Utah	X			X	X		X			X							X
Vermont	X			X	X			X		X							X
Virginia	X			X		X		X		X							X
Washington	X			X	X		X			X							X
West Virginia		X		X	X			X	X		X	X	X	X	X		X
Wisconsin	X			X		X		X	X		X	X	X	X	X		X
Wyoming	X			X	X			X	X		X	X	X				X
Guam	X			X		X		X	X		X	X	X	X	X		X
N. Mariana Islands		X	X			X		X		X							X
Palau		X		X		X	X			X							X
Puerto Rico		X		X	X			X	X								X
Virgin Islands		X		X	X			X		X							X

\*While every jurisdiction evaluates the character and fitness of applicants for admission, not all publish codified standards under which they do so.

### Supplemental Remarks

#### Will a felony conviction bar an applicant from admission?

**Connecticut** Rebuttable presumption of lack of good moral character.

**District of Columbia** A formal hearing conducted by the Committee on Admissions is mandatory for applicants who have a felony conviction.

**Florida** Not an automatic bar, but restoration of civil rights is required to apply for admission. Applicant must provide satisfactory evidence of good moral character.

**Georgia** Not an automatic bar, but a pardon or restoration of civil rights is necessary.

**Illinois** Convicted felons must first receive character and fitness certification before being permitted to write a bar examination.

**Indiana** Conviction of felony is prima facie evidence of lack of requisite good moral character. Applicant has the burden to overcome prima facie evidence.

**Kansas** Persons convicted of a felony are ineligible to apply for admission until 5 years after the date of successful completion of sentence or period of probation.

**Mississippi** Persons convicted of a felony except manslaughter or a violation of the Internal Revenue Code are ineligible.

**Missouri** Persons convicted of a felony are ineligible to apply for admission until 5 years after the date of successful completion of sentence or period of probation and until they meet all of the other requirements specified in rule pertaining to ineligibility.



**Montana** An applicant found guilty of a felony is conclusively presumed not to have present good moral character and fitness. The presumption ceases upon completion of the sentence and/or period of probation.

**Ohio** Applicants convicted of a felony must meet specific conditions and undergo additional review before they can be approved.

**Oregon** An applicant shall not be eligible for admission after having been convicted of a crime, the commission of which would have led to disbarment in all the circumstances present, had the person been an Oregon attorney at the time of conviction.

**Texas** Felony conviction or probation for a felony offense with or without an adjudication of guilt is a bar to application for 5 years after completion of sentence/probation; thereafter, the applicant must demonstrate present good moral character.

**Northern Mariana Islands** Ineligible unless applicant has been granted full pardon.

**Palau** Ineligible unless applicant has been granted full pardon.

### Does a separate entity evaluate character and fitness?

**Alabama** The Committee on Character and Fitness of the Alabama State Bar conducts hearings and makes a determination for law student registrants and applicants seeking admission by bar examination, reciprocity, and transfer of UBE score.

**Colorado** The Office of Attorney Admissions reviews all applications and certifies to the Colorado Supreme Court the applicants found to have met their burden demonstrating the character and fitness to practice law.

**Georgia** The Board to Determine Fitness of Bar Applicants is separate and distinct from the Board of Bar Examiners. The Fitness Board makes character and fitness determinations. The Office of Bar Admissions reports to both Boards, and both Boards must certify an applicant to the Supreme Court.

**Illinois** Committee appointed by the Supreme Court determines whether applicants having been assigned to the committee for certification possess good moral character and general fitness for admission to the practice of law.

**Indiana** The Indiana Supreme Court's Committee on Character and Fitness interviews each applicant and then submits a report and recommendation to the Board of Law Examiners, which makes a final determination.

**Kentucky** The Character and Fitness Committee is responsible for determining the eligibility of applicants for admission to the Kentucky Bar.

**Maryland** Character Committees appointed by the Court of Appeals of Maryland perform character investigations and interviews and make recommendations to the State Board of Law Examiners.

**Mississippi** The Board of Bar Admissions appoints persons to serve on the Committee on Character and Fitness. This committee reviews applications, conducts conferences and hearings with applicants, and makes recommendations to the Board. The Board makes the final determination to approve or deny an applicant on character and fitness grounds.

**Montana** Montana's Character & Fitness Commission, which is separate from the Board of Bar Examiners, evaluates all applicants to determine certification.

**New York** Character and fitness applications are processed by 1 of 4 appellate departments.

**Ohio** Local bar association admissions committees make recommendations to the Board of Commissioners on Character and Fitness, which makes final determinations. This Board is separate from the Board of Bar Examiners.

**Rhode Island** The Rhode Island Supreme Court Committee on Character and Fitness makes character and fitness determinations for the Court.

**Vermont** The Character and Fitness Committee.

**Virgin Islands** The Committee of Bar Examiners evaluates all applicants seeking admission by special admission, bar examination, UBE score transfer, and admission on motion to make character and fitness determinations for the Court.

**Washington** The Washington Supreme Court makes the final character and fitness determinations.

**West Virginia** District Character Committee conducts character and fitness investigation and interviews each applicant, then submits report and recommendation to the Board of Law Examiners.

### Must bar exam applicants be approved for character and fitness in your jurisdiction before they sit for the bar exam?

**Alabama** For exam applicants, character and fitness certification is issued prior to the bar exam unless a hearing before the Committee on Character & Fitness is required. If an exam applicant is required to appear for a hearing, the hearing will only be held if the applicant passes the bar exam.

**Arkansas** Completion of the character and fitness investigations process for any applicants presenting issues is done after all other requirements for eligibility have been met, including passing the bar exam and securing a passing score on the MPRE.

**District of Columbia** Applicants are required to submit an application that contains information related to character and fitness before sitting for the bar exam; however, applicants are not reviewed for character and fitness until they have passed the bar exam and obtained an MPRE score of 75 or higher.

**Florida** Applicants are required to submit the character and fitness application at the time they apply for an examination. The investigation does not have to be complete in order for an applicant to take the examination.

**Hawaii** Exceptions are determined based on information provided by each applicant (e.g., criminal history, foreign-educated attorneys, attorney complaints, grievances, etc.).

(continued)

## Supplemental Remarks (*continued*)

**Illinois** Applicants who fall under Rule 704b (felony convictions, have been disbarred in another jurisdiction, pending disciplinary charges or felonies, etc.) must have character and fitness approval prior to sitting for the exam. All other applicants may sit for the exam prior to character and fitness approval.

**Kentucky** In rare circumstances the Character and Fitness Committee may approve someone to sit under waiver but not release that applicant's grades unless and until the applicant is approved for Character and Fitness.

**Massachusetts** Character and fitness investigations are initiated upon the filing of a petition for admission and are completed in advance of release of bar exam results. Where a petitioner is unsuccessful on the bar exam, the character and fitness investigation is reopened if and when the petitioner applies to retake the bar exam.

**Michigan** Under Michigan Board of Law Examiners Rule 2, the Board may permit an applicant to sit for the examination prior to character and fitness approval. However, this is in the Board's discretion.

**Missouri** A character and fitness investigation is commenced upon receipt of a properly filed application and is not required to be completed in order to sit for the bar examination.

**Nebraska** A final determination can be deferred to allow an applicant to sit for the exam. New rules are being considered to defer all character and fitness determinations until after the bar exam so that bar exam behavior may be considered in final character and fitness approval.

**North Dakota** The character and fitness investigation is conducted simultaneously with a bar exam application being filed. The investigation does not need to be completed in order for an applicant to sit for the exam.

**Pennsylvania** Pennsylvania begins character and fitness investigations on applicants as soon as their applications are accepted. A final review is done post-exam.

**Rhode Island** Rhode Island begins its character and fitness investigations process prior to the bar examination with one-on-one character and fitness interviews between the applicant and a member of the Rhode Island Supreme Court Committee on Character and Fitness. The purpose of that interview is to determine whether further hearing before the entire Committee is necessary. If so, full hearings are held after the examination for those applicants who pass the examination.

**South Dakota** Character and fitness investigations are ongoing. A determination of character and fitness is not made until applicant passes the bar exam.

**Wisconsin** Applicants apply for character and fitness at the same time as they apply for the examination using one application. The character and fitness investigation commences prior to the exam, but applicants are not required to pass the investigation prior to sitting for the exam. If the applicant passes the exam, the investigation is completed; if the applicant fails the exam, the applicant's file is closed and the investigation is not completed.

**Palau** Applicants must provide an original certificate of good standing from the bar of each jurisdiction in which the applicant is a member of the bar, or, if the applicant is not and has never been a member of any bar, a letter from the applicant's law school attesting to the applicant's good moral character.

**Virgin Islands** The NCBE Request for Preparation of a Character and Fitness Report with the attendant fees is required upon the filing of the Application for Admission to the Virgin Islands Bar, which allows the investigation process to be conducted prior to the bar examination.

### Do your rules provide for conditional admission?

**Texas** Rule provides for probationary licensing for chemical dependency and other circumstances in which the Board determines that the protection of the public requires temporary monitoring.

### What categories of conditional admission do your rules permit?

**Maine** The Board evaluates each applicant's character and fitness after he or she passes the bar exam. According to the rule, the Board can advise the Court to grant a conditional admission. However, the rule does not state categories of cases in which the Board should recommend a conditional admission.

**Puerto Rico** Committee on Character evaluates each examinee's character and fitness after he/she passes the bar exam. According to the rule, the Committee can advise the Court to grant a conditional admission. However, the rule does not state categories of cases in which the Committee should recommend a conditional admission.

### Does your jurisdiction have a structured program for deferring admission?

**Arkansas** Issuance of license may be deferred for up to 2 years pending further evaluation, drug tests, etc.

**California** California has an abeyance program where an applicant enters into an agreement with the Committee of Bar Examiners for a set period of time. If an applicant successfully completes the program, it is likely he or she will receive a positive moral character determination without further hearings.

**Minnesota** The Board may postpone determination on an applicant's file if the file contains recent character and fitness issues and a relatively brief record of rehabilitation from past conduct. The period varies but is often 9–12 months in duration. The Board may offer this option to allow the applicant an opportunity to more fully develop and document a history of rehabilitation and evidence that he or she is able to satisfy the essential eligibility requirements for the practice of law at the time the Board considers and makes a final determination of the application. An applicant is not required to accept an offer to postpone determination and may request that the Board instead make a determination based upon the evidence that then exists.



The State Bar  
*of California*

# Moral Character Determination Guidelines

This document 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 guidelines are intended to reflect standards set forth by the California Supreme Court and other governing law.

The utility of the guidelines is predicated on the complete and accurate disclosure of relevant facts and the provision of necessary documentation by the applicant.

The document 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, these guidelines neither bind nor limit the discretion of the decision-makers.

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# Felony Conviction

## Additional Inquiry Seldom Needed

- One conviction, expunged pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character, no aggravating factors
- Nonviolent, more than five years ago, no subsequent convictions, no aggravating factors

## Additional Inquiry May Be Needed

- Not expunged pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character
- Violent

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances
- Involving moral turpitude<sup>1</sup>

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |

<sup>1</sup>“Criminal conduct not committed in the practice of law or against a client reveals 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 of the attorney’s conduct would be likely to undermine public confidence in and respect for the legal profession.” (*In re Lesansky* (2001) 25 Cal.4th 11, 16.)



# Conviction for Drug Sales or Possession

## Additional Inquiry Seldom Needed

- Sealed via deferred entry of judgment for first time drug user under Cal. Penal Code § 1001 no aggravating factors
- Dismissed and expunged under Cal. Penal Code § 1210.1 (codifying Prop. 36) or a similar statute that permits nondisclosure to a state bar, no aggravating factors

## Additional Inquiry May Be Needed

- Drug Sales, one or more convictions
- Possession, multiple convictions

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |



# Alcohol-Related or Drug-Related Misdemeanor Conviction

## Additional Inquiry Seldom Needed

- One conviction, no aggravating factors

## Additional Inquiry May Be Needed

- One conviction, aggravating factors
- Multiple convictions

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances
- Aggravating factors

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |





# Adult Misdemeanor Conviction

## Additional Inquiry Seldom Needed

- Expunged, dismissed, or sealed pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character, no aggravating factors

## Additional Inquiry May Be Needed

- Not expunged, dismissed, or sealed pursuant to a statute listed in the Convictions section of the Application for Determination of Moral Character

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances
- Within five years, aggravating factors
- Involving moral turpitude [see footnote 2]

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |

<sup>2</sup>“Criminal conduct not committed in the practice of law or against a client reveals 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 of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession.” (*In re Lesansky* (2001) 25 Cal.4th 11, 16.)



# Vehicle Code Misdemeanor Conviction

## Additional Inquiry Seldom Needed

- Reckless driving that was not drug-related or alcohol-related, or failure to appear, more than five years ago
- Driving without a license, driving with a suspended license, or speeding; no aggravating factors

## Additional Inquiry May Be Needed

- Hit and run
- Occurred during or after law school
- Aggravating factors

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |



# Juvenile Misdemeanor or Felony Adjudication

## Additional Inquiry Seldom Needed

- Occurred at age fifteen or younger, no aggravating factors

## Additional Inquiry May Be Needed

- Occurred between ages sixteen and eighteen
- Theft-related or gun-related
- Convictions for conduct including, but not limited to, joyriding, vandalism, stalking

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |



# Vehicle Code Infraction

## Additional Inquiry Seldom Needed

- Seldom relevant if no aggravating factors exist

## Additional Inquiry May Be Needed

- Seldom relevant if no aggravating factors exist

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |



# Municipal Code Violation

## Additional Inquiry Seldom Needed

- Seldom relevant if no aggravating factors
- Violations including, but not limited to excessive garbage, overgrown weeds

## Additional Inquiry May Be Needed

- Seldom relevant if no aggravating factors
- Violations including, but not limited to indecent exposure, possession of open container of alcohol

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

The length of time since a conviction, the severity of the criminal conduct, and the number and frequency of convictions are given significant consideration. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |                                       |   |   |  |
|---------------------------------------|---|---|--|
| • Role of applicant                   | • Honorable discharge from military   | • Payment of fines, restitution, other financial obligations        | • Pattern of misconduct  |
| • Age of applicant at time of offense | • Successful completion of parole, probation, community supervision             | • Conviction for conduct that has been legalized                    | • Attempt to conceal or mislead  |
| • Social factors of applicant         | • Completion of education, vocation, rehabilitation programs while incarcerated | • Rehabilitation related to factors that contributed to the offense | • 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) |
| • Time since offense                  | • Community service beyond what is required by court                            | • Record sealed, expunged, dismissed                                | • Number and type of victims   |
| • Intent                              |   |   |  |
| • Remorse, insight, accountability    |   |   |  |
| • Completion of restorative justice   |   |   |  |



# Fraudulent Activity

## Additional Inquiry May Be Needed

- Allegations of fraud

## Informal Conference May Be Needed

- Contingent on the outcome of additional inquiry and totality of the circumstances
- Amount of financial loss considered

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |   |
|--|--|---|
| • Role of applicant                      | • Payment of fines, restitution, other financial obligations | • Financial or emotional impact on victim |
| • Age of applicant at time of misconduct | • Rehabilitation related to misconduct                       | • Misconduct involving abuse of authority |
| • Social factors of applicant            | • Pattern of misconduct                                      | • Number and type of victims              |
| • Time since misconduct                  | • Attempt to conceal or mislead                              |   |
| • Intent                                 | • Job termination due to severe or pervasive behavior        |   |
| • Remorse, insight, accountability       |  |   |



# Omission or Mischaracterization on Application to the State Bar, Law School, Other Licensing Agency

## Additional Inquiry Seldom Needed

- Mistake or error

## Additional Inquiry May Be Needed

- Minor omission

## Informal Conference May Be Needed

- Material omission

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |   |
|--|--|---|
| • Role of applicant                      | • Payment of fines, restitution, other financial obligations | • Financial or emotional impact on victim |
| • Age of applicant at time of misconduct | • Rehabilitation related to misconduct                       | • Misconduct involving abuse of authority |
| • Social factors of applicant            | • Pattern of misconduct                                      | • Number and type of victims              |
| • Time since misconduct                  | • Attempt to conceal or mislead                              |   |
| • Intent                                 | • Job termination due to severe or pervasive behavior        |   |
| • Remorse, insight, accountability       |  |   |



# Denial of Admission to the Practice of Law

## Additional Inquiry May Be Needed

- Any denial

## Informal Conference May Be Needed

- Based on substantive factors or moral character considerations
- Due to an adverse moral character determination in California

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |   |
|--|--|---|
| • Role of applicant                      | • Payment of fines, restitution, other financial obligations | • Financial or emotional impact on victim |
| • Age of applicant at time of misconduct | • Rehabilitation related to misconduct                       | • Misconduct involving abuse of authority |
| • Social factors of applicant            | • Pattern of misconduct                                      | • Number and type of victims              |
| • Time since misconduct                  | • Attempt to conceal or mislead                              |   |
| • Intent                                 | • Job termination due to severe or pervasive behavior        |   |
| • Remorse, insight, accountability       |  |   |





# Admission or License Denial for a Nonlegal Profession

## Additional Inquiry May Be Needed

- Any denial

## Informal Conference May Be Needed

- Based on substantive factors or moral character considerations
- Contingent on the outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |   |
|--|--|---|
| • Role of applicant                      | • Payment of fines, restitution, other financial obligations | • Financial or emotional impact on victim |
| • Age of applicant at time of misconduct | • Rehabilitation related to misconduct                       | • Misconduct involving abuse of authority |
| • Social factors of applicant            | • Pattern of misconduct                                      | • Number and type of victims              |
| • Time since misconduct                  | • Attempt to conceal or mislead                              |   |
| • Intent                                 | • Job termination due to severe or pervasive behavior        |   |
| • Remorse, insight, accountability       |  |   |



# Honor Code or Conduct Code Violation in Law School

## Additional Inquiry Seldom Needed

- Academic dismissal due to low GPA

## Additional Inquiry May Be Needed

- Minor violation as defined by the school

## Informal Conference May Be Needed

- Serious violation as defined by the school
- Serious sanction or punishment imposed

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |   |
|--|--|---|
| • Role of applicant                      | • Payment of fines, restitution, other financial obligations | • Financial or emotional impact on victim |
| • Age of applicant at time of misconduct | • Rehabilitation related to misconduct                       | • Misconduct involving abuse of authority |
| • Social factors of applicant            | • Pattern of misconduct                                      | • Number and type of victims              |
| • Time since misconduct                  | • Attempt to conceal or mislead                              |   |
| • Intent                                 | • Job termination due to severe or pervasive behavior        |   |
| • Remorse, insight, accountability       |  |   |



# Honor Code or Conduct Code Violation in Undergraduate or Post-Graduate Institution

## Additional Inquiry Seldom Needed

- Academic dismissal due to low GPA

## Additional Inquiry May Be Needed

- Minor violation as defined by the school

## Informal Conference May Be Needed

- Serious violation as defined by the school

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |   |
|--|--|---|
| • Role of applicant                      | • Payment of fines, restitution, other financial obligations | • Financial or emotional impact on victim |
| • Age of applicant at time of misconduct | • Rehabilitation related to misconduct                       | • Misconduct involving abuse of authority |
| • Social factors of applicant            | • Pattern of misconduct                                      | • Number and type of victims              |
| • Time since misconduct                  | • Attempt to conceal or mislead                              |   |
| • Intent                                 | • Job termination due to severe or pervasive behavior        |   |
| • Remorse, insight, accountability       |  |   |



# Job Termination

## Additional Inquiry Seldom Needed

- Layoff
- Without cause

## Additional Inquiry May Be Needed

- With cause for conduct including, but not limited to, violation of company policy

## Informal Conference May Be Needed

- With cause for conduct including, but not limited to, violation of law

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |   |
|--|--|---|
| • Role of applicant                      | • Payment of fines, restitution, other financial obligations | • Financial or emotional impact on victim |
| • Age of applicant at time of misconduct | • Rehabilitation related to misconduct                       | • Misconduct involving abuse of authority |
| • Social factors of applicant            | • Pattern of misconduct                                      | • Number and type of victims              |
| • Time since misconduct                  | • Attempt to conceal or mislead                              |   |
| • Intent                                 | • Job termination due to severe or pervasive behavior        |   |
| • Remorse, insight, accountability       |  |   |



# Breach of Fiduciary Duty

## Additional Inquiry Seldom Needed

- Complaint deemed unsubstantiated, not sustained

## Additional Inquiry May Be Needed

- Sustained or pending complaint

## Informal Conference May Be Needed

- Sustained or pending complaint, aggravating factors

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |   |
|--|--|--|---|
| • Role of applicant                      | • 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) | • Compliance with payment agreement    | • Failure to address debt or judgment     |
| • Age of applicant at time of misconduct | • Payment of fines, restitution, other financial obligations   | • Rehabilitation related to misconduct | • Pattern of misconduct                   |
| • Social factors of applicant            | • Payment plan in place  | • Currently financially responsible    | • Attempt to conceal or mislead           |
| • Time since misconduct                  |  | • Adverse judgment presently on appeal | • Number and type of victims              |
| • Intent                                 |  |  | • Finding of contempt of court            |
| • Remorse, insight, accountability       |  |  | • Misconduct involving abuse of authority |



# Unpaid, Past Due State or Federal Income Taxes

## Additional Inquiry Seldom Needed

- Mistake or error
- Old, not outstanding for a sustained period of time, now in compliance

## Additional Inquiry May Be Needed

- Civil penalty or financial settlement

## Informal Conference May Be Needed

- Criminal conviction for fraud or tax evasion

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |   |
|--|--|--|---|
| • Role of applicant                      | • 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) | • Compliance with payment agreement    | • Failure to address debt or judgment     |
| • Age of applicant at time of misconduct | • Payment of fines, restitution, other financial obligations   | • Rehabilitation related to misconduct | • Pattern of misconduct                   |
| • Social factors of applicant            | • Payment plan in place  | • Currently financially responsible    | • Attempt to conceal or mislead           |
| • Time since misconduct                  |  | • Adverse judgment presently on appeal | • Number and type of victims              |
| • Intent                                 |  |  | • Finding of contempt of court            |
| • Remorse, insight, accountability       |  |  | • Misconduct involving abuse of authority |



# Bankruptcy

## Additional Inquiry Seldom Needed

- No objections, discharged

## Additional Inquiry May Be Needed

- Objections that were dismissed

## Informal Conference May Be Needed

- Findings of fraud, revocation of discharge, objections that were sustained

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |   |
|--|--|--|---|
| • Role of applicant                      | • 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) | • Compliance with payment agreement    | • Failure to address debt or judgment     |
| • Age of applicant at time of misconduct | • Payment of fines, restitution, other financial obligations   | • Rehabilitation related to misconduct | • Pattern of misconduct                   |
| • Social factors of applicant            | • Payment plan in place  | • Currently financially responsible    | • Attempt to conceal or mislead           |
| • Time since misconduct                  |  | • Adverse judgment presently on appeal | • Number and type of victims              |
| • Intent                                 |  |  | • Finding of contempt of court            |
| • Remorse, insight, accountability       |  |  | • Misconduct involving abuse of authority |



# Past Due Debt, Debt in Collections

## Additional Inquiry Seldom Needed

- Current debt, not past due

## Additional Inquiry May Be Needed

- In collections
- Default on loans
- One or more unsatisfied judgments

## Informal Conference May Be Needed

- Numerous suits filed to recover significant debts
- One or more significant unsatisfied judgments, no attempts to satisfy

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |   |
|--|--|--|---|
| • Role of applicant                      | • 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) | • Compliance with payment agreement    | • Failure to address debt or judgment     |
| • Age of applicant at time of misconduct | • Payment of fines, restitution, other financial obligations   | • Rehabilitation related to misconduct | • Pattern of misconduct                   |
| • Social factors of applicant            | • Payment plan in place  | • Currently financially responsible    | • Attempt to conceal or mislead           |
| • Time since misconduct                  |  | • Adverse judgment presently on appeal | • Number and type of victims              |
| • Intent                                 |  |  | • Finding of contempt of court            |
| • Remorse, insight, accountability       |  |  | • Misconduct involving abuse of authority |





# Unauthorized Practice of Law

## Additional Inquiry May Be Needed

- Any allegation

## Informal Conference May Be Needed

- Contingent on outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Malpractice (Attorney)

## Additional Inquiry May Be Needed

- Any allegation

## Informal Conference May Be Needed

- Multiple allegations

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Professional Discipline (Attorney)

## Additional Inquiry May Be Needed

- Discipline imposed

## Informal Conference May Be Needed

- Public reproof, reprimand, admonishment, suspension, disbarment

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Professional Complaint (Attorney)

## Additional Inquiry Seldom Needed

- No action taken by agency

## Additional Inquiry May Be Needed

- Adverse action against the attorney taken by the licensing agency
- One or more complaints

## Informal Conference May Be Needed

- Multiple complaints
- Finding of malpractice or other wrongful conduct [see Malpractice, page 24]

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Court Sanctions

## Additional Inquiry May Be Needed

- Any

## Informal Conference May Be Needed

- Multiple instances
- For conduct involving dishonesty

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Malpractice (Nonlegal Profession)

## Additional Inquiry May Be Needed

- Any allegation

## Informal Conference May Be Needed

- Multiple allegations

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Professional Discipline (Nonlegal Profession)

## Additional Inquiry May Be Needed

- Any disciplinary action imposed

## Informal Conference May Be Needed

- Public reproof, reprimand, admonishment, suspension, disbarment

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Professional Complaint (Nonlegal Profession)

## Additional Inquiry Seldom Needed

- No action taken by agency

## Additional Inquiry May Be Needed

- Adverse action against the professional taken by licensing agency
- Multiple complaints

## Informal Conference May Be Needed

- Numerous professional complaints
- Finding of malpractice or other wrongful conduct [see Malpractice, page 28]

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |





# Military Discipline

## Additional Inquiry Seldom Needed

- Conduct did not result in nonjudicial punishment, court-martial determination of guilt, or administrative discharge

## Additional Inquiry May Be Needed

- Conduct resulted in nonjudicial punishment, court-martial determination of guilt, or administrative discharge

## Informal Conference May Be Needed

- Contingent on outcome of additional inquiry and totality of the circumstances

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



## Civil Action

### Additional Inquiry Seldom Needed

- Family Law case including, but not limited to, a dissolution with no support or aggravating factors
- Other civil case including, but not limited to contract, landlord/tenant, personal injury; applicant is plaintiff; no aggravating factors
- Party to fewer than five cases

### Additional Inquiry May Be Needed

- Family Law ongoing support orders, ongoing restraining orders
- Other civil case, applicant is defendant or respondent, no aggravating factors
- Applicant is plaintiff, aggravating factors
- Party to more than five cases

### Informal Conference May Be Needed

- Claims of violation of court orders or nonpayment, unsatisfied judgments [see Past Due Debt, page 22]
- Excessive number of cases or numerous adverse judgments
- Entry of judgment for serious misconduct
- Finding of malpractice or other wrongful conduct [see Malpractice, page 24 and 28]

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



# Administrative Proceeding, Adjudication, Action

## Additional Inquiry Seldom Needed

- One administrative action, four or more years ago, with the Department of Motor Vehicles or state unemployment insurance appeals board
- Other administrative action, fewer than five actions, no aggravating factors

## Additional Inquiry May Be Needed

- Multiple actions, less than four years ago, with the Department of Motor Vehicles or state unemployment insurance appeals board
- Other administrative action, more than five actions

## Informal Conference May Be Needed

- Occurred less than one year ago with the Department of Motor Vehicles or state unemployment insurance appeals board
- Excessive number of other administrative actions
- Adverse administrative determination against the applicant for serious misconduct

## Mitigation, Aggravation, Rehabilitation

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. The following are additional factors that may mitigate or aggravate an act of misconduct, or demonstrate rehabilitation:

- |  |  |  |  |
|--|--|--|--|
| • Time since offense   | • Prior record   | • Official finding of serious misconduct, grossly incompetent practice or representation, or willful wrongdoing or misrepresentation | • Misconduct involving moral turpitude [see footnote 1]  |
| • Intent   | • Engagement in a type of business or enterprise that typically experiences recurrent litigation | • Judicial designation of administrative claim as frivolous  | • Omission or failure to notify other regulatory agencies or jurisdictions                                 |
| • Remorse, insight, accountability   | • Pattern of misconduct  | • Judicial finding of malpractice  | • Determination of the complaint, allegation of malpractice, or allegation of unauthorized practice of law |
| • Rehabilitation related to misconduct   | • Attempt to conceal or mislead  | • Imposition of punitive damages against applicant   | • Financial impact on victim   |
| • Meritorious nature of applicant's involvement in litigation or administrative action | • Number and type of victims   |  |  |
| • Favorable termination of litigation or administrative action                         | • Designation of applicant as vexatious litigant   |  |  |
|  | • Finding of contempt of court   |  |  |



## **Chapter 4. Moral Character Determination**

### **Rule 4.40 Moral Character Determination**

- (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 4.40 adopted effective September 1, 2008; amended effective September 1, 2019.*

### **Rule 4.41 Application for Determination of Moral Character**

- (A) An applicant must submit an Application for Determination of Moral Character with required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. 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.
- (B) An Application for Determination of Moral Character may be submitted any time after filing an Application for Registration but is deemed filed only when the application is complete.

*Rule 4.41 adopted effective September 1, 2008; amended effective November 14, 2009; previously amended effective July 22, 2011; amended effective March 9, 2018.*

### **Rule 4.42 Duty to update Application for Determination of Moral Character**

Until admitted to practice law, an applicant who has submitted an Application for Determination of Moral Character has a continuing duty to promptly notify the Office of Admissions whenever information provided in the application has changed or there is new information relevant to the application. Failure to provide updated information within thirty days after the change or addition to the information originally submitted may be cause for suspension of a positive moral character determination.

*Rule 4.42 adopted effective September 1, 2008; amended effective November 14, 2009.*

### **Rule 4.43 Abandonment of Application for Determination of Moral Character**

- (A) An Application for Determination of Moral Character is deemed abandoned and ineligible for a refund of fees if
  - (1) it is not complete within sixty days after being initiated; or

- (2) it is complete but the applicant has failed to provide additional information requested by the State Bar within ninety days of the request.
- (B) An applicant may request a review by the Committee of the State Bar's decision within 30 days of service of the notice of abandonment.
- (C) A new Application for Determination of Moral Character must be submitted with the required fee if an application has been abandoned.

*Rule 4.43 adopted effective September 1, 2008; amended effective September 1, 2019.*

#### **Rule 4.44 Withdrawal of Application for Determination of Moral Character**

- (A) An applicant may withdraw an Application for Determination of Moral Character any time before being notified that the State Bar is unable to make a determination without further inquiry and analysis.
- (B) An applicant may withdraw an application filed with the State Bar Court for a hearing on an adverse determination of moral character by filing a request for withdrawal with the Office of Chief Trial Counsel and forwarding a copy to the Office of Admissions.

*Rule 4.44 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective September 1, 2019.*

#### **Rule 4.45 Notice regarding status of Application for Determination of Moral Character**

- (A) Within 180 days of receiving a completed Application for Determination of Moral Character, the State Bar notifies an applicant that its determination of moral character is positive or that it requires further consideration. A positive determination is valid for thirty-six months.
- (B) While an Application for Determination of Moral Character remains pending, a status report is issued to the applicant at least every 120 days.
- (C) Within 120 days of receiving additional information it has requested, the State Bar notifies the applicant that
  - (1) the applicant is determined to be of good moral character;
  - (2) the applicant has not met the burden of establishing good moral character;
  - (3) the application requires further consideration;
  - (4) the applicant is invited to an informal conference; or

- (5) the applicant is advised to enter into an Agreement of Abeyance with the State Bar.

*Rule 4.45 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective September 1, 2019.*

#### **Rule 4.46 Informal conference regarding moral character**

- (A) Prior to rendering an adverse determination on a moral character application, the State Bar shall invite the applicant to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and declining it entails no negative inference.
- (B) The Committee may establish procedures for an informal conference with the State Bar and require the State Bar to create a record of it by tape recording, video recording, or any other means. The applicant may attend the conference with counsel; make a written or oral statement; and present documentary evidence. Counsel is limited to observation and may not participate.

*Rule 4.46 adopted effective September 1, 2008; previously amended effective November 14, 2009; amended effective September 1, 2019.*

#### **Rule 4.47.1 Request for Review By the Committee of Adverse Determination**

- (A) An applicant notified of an adverse determination of moral character may request a review by the Committee. The request must be submitted to the Office of Admissions within 30 days of the date of the notice of the State Bar's determination. The applicant may submit supplemental material with the request.
- (B) Within 60 days of receipt of the request for a review, the Committee will conduct a review of the record, which may include a review of the transcript or recording of the informal conference. The Committee may request additional information from the applicant or from the State Bar. The Committee must notify the applicant of its final determination within 30 days of its decision.

*Rule 4.47.1 adopted effective September 1, 2019.*

#### **Rule 4.47 Appeal of adverse determination of moral character issued by Committee**

- (A) If the Committee issues an adverse determination of moral character, an applicant may file a request for hearing on the determination with the State Bar Court in accordance with the Rules of Procedure of the State Bar on Moral Character Proceedings. The request must be filed with the fee set forth in the Schedule of Charges and Deadlines within sixty days of the date of service of the notice of adverse determination.

- (B) A copy of the request for hearing must be served on the Office of Admissions and the Office of Chief Trial Counsel. Upon receipt of service, the Committee must promptly transmit all files related to the application to the Office of Chief Trial Counsel.

*Rule 4.47 adopted effective September 1, 2008; previously amended effective July 24, 2015; amended effective September 1, 2019.*

#### **Rule 4.48 Agreement of Abeyance**

- (A) The State Bar and an applicant may suspend processing of an Application for Determination of Moral Character by an Agreement of Abeyance
  - (1) when a court has ordered an applicant charged with a crime to be treated, rehabilitated, or otherwise diverted;
  - (2) when a court has suspended the sentence of an applicant convicted of a crime and placed the applicant on probation;
  - (3) when an applicant is actively seeking or obtaining treatment for chemical dependency or drug or alcohol addiction; or
  - (4) if the State Bar and an applicant otherwise agree.
- (B) An Agreement of Abeyance must be in writing and specify the period and conditions of abeyance. A copy must be provided to the applicant.

*Rule 4.48 adopted effective September 1, 2008; amended effective September 1, 2019.*

#### **Rule 4.49 New application following adverse determination of moral character**

The State Bar may permit an applicant who has received an adverse moral character determination to file another Application for Determination of Moral Character two years from the date of the final determination or at some other time set by the State Bar, for good cause shown, at the time of its adverse determination.

*Rule 4.49 adopted effective September 1, 2008; previously amended effective July 24, 2015; amended effective September 1, 2019.*

#### **Rule 4.50 Suspension of positive determination of moral character**

- (A) Before certifying an applicant for admission to the practice of law, the State Bar may notify an applicant that it has suspended a positive determination of moral character if it receives information that reasonably calls the applicant's character into question. The notice must specify the grounds for the suspension.

- (B) The application of an applicant whose positive determination has been suspended is processed in accordance with Rule 4.45.

*Rule 4.50 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.*

#### **Rule 4.51 Validity period of positive moral character determination**

A positive determination of moral character is valid for thirty-six months. An applicant with a positive determination who has not been certified to practice law within this validity period must submit an Application for Extension of Determination of Moral Character.

*Rule 4.51 adopted effective September 1, 2008.*

#### **Rule 4.52 Extension of positive moral character determination**

- (A) An applicant who has received a positive moral character determination may submit an Application for Extension of Determination of Moral Character. The application must be filed in the last six months of the initial thirty-six month validity period with the required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. If the State Bar makes a positive determination before the initial thirty-six months expires, the initial thirty-six months is extended an additional thirty-six months. If the State Bar makes a positive determination after expiration of the initial thirty-six months, an extension of thirty-six months begins at the time of its determination.
- (B) An applicant may request a review by the Committee of the State Bar's decision within 30 days of service of the notice of decision.

*Rule 4.52 adopted effective September 1, 2008; amended effective September 1, 2019.*

### **Chapter 5. Examinations**

#### **Rule 4.55 First-Year Law Students' Examination requirement**

- (A) A general applicant intending to seek admission to practice law in California must take the First-Year Law Students' Examination unless the applicant
- (1) has satisfactorily completed
    - (a) at least two years of college work as defined by these rules and the Committee's guidelines; and
    - (b) the first-year course of instruction





# California Rules of Court

(Revised January 1, 2021)

## **Rule 9.13. Review of State Bar Court decisions**

### **(a) Review of recommendation of disbarment or suspension**

A petition to the Supreme Court by a licensee to review a decision of the State Bar Court recommending his or her disbarment or suspension from practice must be served and filed within 60 days after a certified copy of the decision complained of is filed with the Clerk of the Supreme Court. The State Bar may serve and file an answer to the petition within 15 days after filing of the petition. Within 5 days after filing of the answer, the petitioner may serve and file a reply. If review is ordered by the Supreme Court, the State Bar must serve and file a supplemental brief within 45 days after the order is filed. Within 15 days after filing of the supplemental brief, the petitioner may serve and file a reply brief.

*(Subd (a) amended effective January 1, 2019; previously relettered and amended effective October 1, 1973; previously amended effective July 1, 1968, December 1, 1990, and January 7, 2007.)*

### **(b) Review of recommendation to set aside stay of suspension or modify probation**

A petition to the Supreme Court by a licensee to review a recommendation of the State Bar Court that a stay of an order of suspension be set aside or that the duration or conditions of probation be modified on account of a violation of probation must be served and filed within 15 days after a certified copy of the recommendation complained of is filed with the Clerk of the Supreme Court. Within 15 days after filing of the petition, the State Bar may serve and file an answer. Within 5 days after filing of the answer, the petitioner may serve and file a reply.

*(Subd (b) amended effective January 1, 2019; adopted effective October 1, 1973; previously amended effective December 1, 1990; and January 1, 2007.)*

### **(c) Review of interim decisions**

A petition to the Supreme Court by a licensee to review a decision of the State Bar Court regarding interim suspension, the exercise of powers delegated by rule 9.10(b)-(e), or another interlocutory matter must be served and filed within 15 days after written notice of the adverse decision of the State Bar Court is mailed by the State Bar to the petitioner and to his or her counsel of record, if any, at their respective addresses under section 6002.1. Within 15 days after filing of the petition, the State Bar may serve and file an answer. Within 5 days after filing of the answer, the petitioner may serve and file a reply.

*(Subd (c) amended effective January 1, 2019; adopted effective December 1, 1990; previously amended effective January 1, 2007.)*

### **(d) Review of other decisions**

A petition to the Supreme Court to review any other decision of the State Bar Court or action of the Board of Trustees of the State Bar, or of any board or committee appointed by it and authorized to make a determination under the provisions of the State Bar Act, or of the chief executive officer of the State Bar or the designee of the chief executive officer authorized to make a determination under article 10 of the State Bar Act or these rules of court, must be served and filed within 60 days after written notice of the action complained of is mailed to the petitioner and to his or her counsel of record, if any, at their respective addresses under Business and Professions Code section 6002.1. Within 15 days after filing of the petition, the State Bar may serve and file an answer and

brief. Within 5 days after filing of the answer and brief, the petitioner may serve and file a reply. If review is ordered by the Supreme Court, the State Bar, within 45 days after filing of the order, may serve and file a supplemental brief. Within 15 days after filing of the supplemental brief, the petitioner may serve and file a reply brief.

*(Subd (d) amended effective January 1, 2019; previously amended effective July 1, 1968, May 1, 1986, April 2, 1987, and January 1, 2007; previously relettered and amended effective October 1, 1973, and December 1, 1990.)*

#### **(e) Contents of petition**

- (1) A petition to the Supreme Court filed under (a) or (b) of this rule must be verified, must specify the grounds relied upon, must show that review within the State Bar Court has been exhausted, must address why review is appropriate under one or more of the grounds specified in rule 9.16, and must have attached a copy of the State Bar Court decision from which relief is sought.
- (2) When review is sought under (c) or (d) of this rule, the petition must also be accompanied by a record adequate to permit review of the ruling, including:
  - (A) Legible copies of all documents and exhibits submitted to the State Bar Court or the State Bar supporting and opposing petitioner's position;
  - (B) Legible copies of all other documents submitted to the State Bar Court or the State Bar that are necessary for a complete understanding of the case and the ruling; and
  - (C) A transcript of the proceedings in the State Bar Court leading to the decision or, if a transcript is unavailable, a declaration by counsel explaining why a transcript is unavailable and fairly summarizing the proceedings, including arguments by counsel and the basis of the State Bar Court's decision, if stated; or a declaration by counsel stating that the transcript has been ordered, the date it was ordered, and the date it is expected to be filed, which must be a date before any action is requested from the Supreme Court other than issuance of a stay supported by other parts of the record.
- (3) A petitioner who requests an immediate stay must explain in the petition the reasons for the urgency and set forth all relevant time constraints.
- (4) If a petitioner does not submit the required record, the court may summarily deny the stay request, the petition, or both.

*(Subd (e) amended effective January 1, 2019; previously repealed and adopted by the Supreme Court effective December 1, 1990, and February 1, 1991; previously repealed and adopted effective March 15, 1991; previously amended effective January 1, 2007.)*

#### **(f) Service**

All petitions, briefs, reply briefs, and other pleadings filed by a petitioner under this rule must be accompanied by proof of service of three copies on the General Counsel of the State Bar at the San Francisco office of the State Bar, and of one copy on the Clerk of the State Bar Court at the Los Angeles office of the State Bar Court. The State Bar must serve the licensee at his or her address under Business and Professions Code section 6002.1, and his or her counsel of record, if any.

*(Subd (f) amended effective January 1, 2019; adopted by the Supreme Court effective December 1, 1990; previously amended by the Supreme Court effective February 1, 1991; previously amended effective March 15, 1991, and January 1, 2007.)*

*Rule 9.13 amended effective January 1, 2019; adopted as rule 59 by the Supreme Court effective April 20, 1943, and by the Judicial Council effective July 1, 1943; previously amended and renumbered as rule 952 effective October 1, 1973, and as 9.13 effective January 1, 2007; previously amended effective July 1, 1976, May 1, 1986, April 2, 1987, December 1, 1990, February 1, 1991, and March 15, 1991.*

**Katz, Linda**

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**From:** Katz, Linda  
**Sent:** Wednesday, February 3, 2021 3:26 PM  
**Subject:** CPPWG - Licensing Subcommittee: Message from Judge Yew, Chair of Pilot Implementation Subcommittee

Dear Colleagues on the CPPWG Licensing Subcommittee,

I am writing to you as Chair of the Pilot Implementation Subcommittee with recommendations for the balancing of education, experience, and testing requirements to enter the new field of legal paraprofessionals. Recognizing that these threshold features fall comfortably within the scope of your committee's work, they have also arisen for our subcommittee as we design the launch version of the Program. Like you, we are particularly motivated to attract participants to the Program while carefully protecting consumers.

To allow for a minimally large pool of candidates in the endeavor's formative years – or at least during its potentially three-year pilot – we respectfully request that the Licensing Subcommittee consider allowing legal paraprofessional candidates to:

- \* Satisfy any Program-specific coursework if they have already completed sufficient education in law school or a paralegal program;
- \* Satisfy any Program-specific experience requirements if they can show sufficient, past work or clinical experience that is relevant; and
- \* Test out of any Program-specific educational requirements, meaning that they need not satisfy all of those education requirements if they can pass the legal paraprofessional exam(s).

The Pilot Implementation Subcommittee is concerned that the Program might stumble out of the gate, thereby complicating its viability, if there is too little interest in pursuing a license in its first few years. This could happen if those who would participate perceive the requirements as too arduous. While the threshold to enter must protect consumers, we would not want to see the Program's promise to expand access to civil justice succumb to its safeguards.

While we confidently leave this aspect of balancing public protection and program viability in your capable hands, we do believe that the current proposal for education, experience, and testing to be too steep to encourage early participation. And if the waiver and test-out suggestions that I propose above would be insufficiently stringent for the ultimate Program, than we ask that you consider an expedited avenue for pilot participants. A pilot might need to launch by early 2022, before a Program-specific education or exam could become available.

Thank you for all of your very hard work and consideration,

Hon. Erica Yew  
Chair, CPPWG Pilot Implementation Subcommittee