

LSX Rules/Policies Updates – Violations

For reference, we've drafted proposed edits to the Legal Specialization (LS) Rules, and any other areas what may need to be, or should be, updated as a result of the Rules update. Proposed edits are provided in the following format:

Source:	<i>Where/what it is</i>
Link:	<i>Link to the source</i>
Original Content:	<i>Exact copy of reference material(s)</i>
Source:	<i>Admissions Rule(s) reference, if any</i>
Link:	<i>Link to Admissions source</i>
Original Content:	<i>Exact copy of Admissions reference material(s)</i>
Proposed New Content:	<i>proposed edit/change to LS reference material(s) in tracked changes</i>

LS Rules

Source:	3.116 Examination
Link:	https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title3_Div2-Ch2_LegSpec.pdf
Original Content:	<i>*None specific to violations*</i>
Source:	Admissions Rule 4.70 – Conduct required at examinations
Link:	https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div1-Adm-Prac-Law.pdf
Original Content:	Applicants are expected to conduct themselves professionally at all times at an examination test center. Conduct that violates the security or administration of an examination may be reported to the State Bar as a Chapter 6 Notice or, in extreme cases, may require dismissal from the examination test center. Unacceptable conduct may include, but is not limited to, having unauthorized items, writing or typing after time has been called, looking at another applicant's answers, talking when silence is required, or abusive behavior. A copy of the Chapter 6 Notice is provided to the applicant during or following an examination. Rule 4.71 Reports of conduct violations: (A) The State Bar considers reports of the Chapter 6 Notices that have been issued to applicants during or following an administration of an examination as soon as practicable and no later than the first Committee meeting following the examination. (B) If the State Bar affirms the Chapter 6 Notice, the applicant must be notified of its proposed sanction within thirty days. Sanctions may include assigning a score of zero for a question, a session, or an entire examination. An examination score may be held in abeyance pending resolution of the matter. (C) The Committee may establish guidelines for the processing of conduct violations. The Committee may establish specific sanctions for certain undisputed conduct violations, such as bringing an unauthorized item into the examination room. An applicant sanctioned for an undisputed conduct violation is not entitled to an administrative hearing.
Source:	Admissions Rule 4.71 - Reports of conduct violations
Link:	https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div1-Adm-Prac-Law.pdf

Original Content:	(A) The State Bar considers reports of the Chapter 6 Notices that have been issued to applicants during or following an administration of an examination as soon as practicable and no later than the first Committee meeting following the examination. (B) If the State Bar affirms the Chapter 6 Notice, the applicant must be notified of its proposed sanction within thirty days. Sanctions may include assigning a score of zero for a question, a session, or an entire examination. An examination score may be held in abeyance pending resolution of the matter. (C) The Committee may establish guidelines for the processing of conduct violations. The Committee may establish specific sanctions for certain undisputed conduct violations, such as bringing an unauthorized item into the examination room. An applicant sanctioned for an undisputed conduct violation is not entitled to an administrative hearing.
Source:	Rule 4.72 - Request for an administrative hearing on conduct violation
Link:	https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div1-Adm-Prac-Law.pdf
Original Content:	(A) An applicant notified of a conduct violation for which a specific sanction has not been established by examination rules or guidelines may file a request for an administrative hearing. The request must be filed within twenty days of receipt of the notice or the proposed sanction will take effect. For good cause shown by clear and convincing evidence the State Bar may extend the filing deadline. (B) Once an applicant has filed a request for an administrative hearing on a conduct violation, the State Bar must schedule an administrative hearing within ninety days, or at a later time for good cause, and notify the applicant of the time and place of the hearing.
Source:	Rule 4.73 - Procedure for an administrative hearing on conduct violation
Link:	https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div1-Adm-Prac-Law.pdf
Original Content:	(A) The Committee may establish procedures for conducting administrative hearings on conduct violations. A record of a hearing can be established by tape recording, video recording, or any other means. The applicant may attend the administrative hearing with counsel; make a written or oral statement; and present documentary evidence. Applicant's counsel is limited to observation and may not participate. (B) The State Bar has the burden of establishing by clear and convincing evidence that a violation occurred. (C) The State Bar must render Findings and Recommendations no later than thirty days after the administrative hearing, which must be served on the applicant and counsel present at the hearing. The State Bar may recommend the sanction originally proposed or any other action it deems appropriate.
Proposed New Content:	<p><u>3.116.1 Exam Conduct and Violations</u></p> <p><u>(A) Conduct required at examinations</u></p> <p><u>(1) Applicants are expected to conduct themselves professionally at all times at an examination test center. Conduct that violates the security or administration of an examination may be reported to the State Bar as a Notice of Violation or, in extreme cases, may require dismissal from the examination test center. Unacceptable conduct may include, but is not limited to, having unauthorized items, writing or typing after time has been called, looking at another applicant's answers, talking when silence is required, or abusive behavior. A copy of the Notice of Violation is provided to the applicant during or following an examination.</u></p> <p><u>(B) Reports of conduct violations</u></p> <p><u>(1) The State Bar considers reports of the Notice of Violations that have been issued to applicants during or following an administration of an examination as soon as practicable and no later than the first Board meeting following the general release of examination results.</u></p> <p><u>(2) If the State Bar affirms the Notice of Violation, the applicant must be notified of its proposed sanction within thirty days. Sanctions may include assigning a score of zero for a question,</u></p>

a session, or an entire examination. An examination score may be held in abeyance pending resolution of the matter.

(3) The Board may establish guidelines for the processing of conduct violations. The Board may establish specific sanctions for certain undisputed conduct violations, such as bringing an unauthorized item into the examination room. An applicant sanctioned for an undisputed conduct violation is not entitled to an appeal.

(C) Request for an appeal on conduct violation

(1) An applicant notified of a conduct violation for which a specific sanction has not been established by examination rules or guidelines may file a request for an appeal. The request must be filed within twenty days of receipt of the notice, or the proposed sanction will take effect. For good cause shown by clear and convincing evidence the State Bar may extend the filing deadline.

(2) Once an applicant has filed a request for an appeal on a conduct violation, the State Bar must schedule an appeal within ninety days, or at a later time for good cause, and notify the applicant of the time and place of the hearing.

(D) Procedure for an appeal on conduct violation

(1) The Board may establish procedures for conducting appeals on conduct violations. A record of a hearing can be established by tape recording, video recording, or any other means. The applicant may attend the appeal with counsel; make a written or oral statement; and present documentary evidence. Applicant's counsel is limited to observation and may not participate.

(2) The State Bar has the burden of establishing by clear and convincing evidence that a violation occurred.

(3) The State Bar must render Findings and Recommendations no later than thirty days after the appeal, which must be served on the applicant and counsel present at the hearing. The State Bar may recommend the sanction originally proposed or any other action it deems appropriate.

Commented [AG1]: We can adopt the Bar Exam and First-Year Exam conduct violations, but revise the guidelines to make the sanction relevant to the LSX