



The State Bar of California

OPEN SESSION

AGENDA ITEM O-500

MARCH 2023

COMMITTEE OF BAR EXAMINERS

DATE: March 24, 2023

TO: Members, Committee of Bar Examiners

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

SUBJECT: Recommendation to Adopt Changes to the Admissions Rules Pertaining to
Moral Character: Return from Public Comment

EXECUTIVE SUMMARY

At its October 14, 2022 meeting, the Committee of Bar Examiners (Committee) adopted a motion recommending that the Board of Trustees (Board) circulate revisions to the Admissions Rules related to Moral Character. At its November 17-18, 2023 meeting, the Board concurred. The rules were circulated for 60 days during which the Committee received 10 comments plus one submission which included only an unrelated attachment with no comment. Six comments agreed with the proposal, three disagreed, and one agreed if modified. A copy of the comment chart is included as Attachment A. After review of the comments, staff recommends no changes to the proposed revisions to the Admissions Rules. Additionally, staff recommends that the Committee request that the Board approve the proposed changes to the Admissions Rules pertinent to Moral Character and submit them to the Supreme Court for adoption.

BACKGROUND

The Office of Admissions is reviewing all rules, procedures, and practices. The goals of this review process include ensuring clarity for applicants, consistent application of the rules and policies by staff, providing new tools for applicants to understand and meet their obligations, and updating obsolete or outdated rules, procedures, and practices. In addition, the Office of Admissions is examining its rules and processes with an eye to ensuring that all are necessary and appropriate to ensure public protection and do not impose an unnecessary barrier to

admission. In evaluating the rules and processes, staff examined, among other things, questions received from applicants, common areas of misunderstanding or confusion amongst applicants, and applications from other jurisdictions.

Staff identified several rules that create confusion amongst applicants and require clarity. For example, as currently written, Rule 4.43 regarding when an application will be deemed abandoned does not clearly explain the process. In addition, some rules are not consistent with one another and require revision. Currently, Rule 4.45(C)(2) states that the State Bar may notify the applicant within 120 days of receiving additional information requested that the applicant has been denied a positive moral character determination. In contrast, Rule 4.46(A) clearly states that the State Bar will invite an applicant to an informal conference prior to rendering an adverse determination.

On October 14, 2022, the Committee adopted a resolution by a vote of 10-0 recommending that the Board circulate the rule changes for public comment. The Board agreed, and the proposed rule changes were circulated for a 60-day public comment period. A total of 11 submissions were received; one submission included only an unrelated attachment with no comment. Of the 10 written comments, six agree with the proposal as circulated, one agrees if modified, and three disagree.

DISCUSSION

RULE CHANGES

The [agenda item](#) for the October 14, 2022 Committee meeting provides the background describing the recommended revisions to the Admissions Rules pertinent to Moral Character.

At its October meeting, staff provided two versions of the proposed rule changes because the pending changes related to the elimination of the five-year period of validity for a passing bar exam score overlapped slightly with the moral character rules. Those rule changes were not approved, removing the need to consider the version that included those changes.

PUBLIC COMMENTS

The Committee received 10 public comments on the proposed revisions, excluding the submission wholly unrelated to this rules package and which did not express an opinion about this rule package; the attachment was a copy of their transcript. Of the 10 comments, six agree with the proposal as circulated, one agrees if modified, and three disagree. The comment chart in Attachment A identifies each commenter, their verbatim comments, their position on the proposal, and staff's recommendation if the comment identified the need for the proposal to be modified. After reviewing the public comments, staff does not recommend any changes to the revised rules.

One of the three commenters who disagreed with the proposal did not include a rationale for their position. Another commenter disagrees with the Moral Character process, asserting that a

background check by the Department of Justice is sufficient. A positive determination of moral character is required for admission to practice law in California by section 6060 of the Business and Professions Code,¹ and elimination of the moral character process goes beyond the scope of this rule proposal. The final commenter who disagreed with the proposal asserted that “too often lawyers with serious moral issues are allowed to practice” and stated that applicants should “never” be allowed to practice if they were involved in a fraternity prank that results in someone’s death. As the Committee is aware, there is no act of misconduct that, in and of itself, precludes an applicant from obtaining a positive moral character determination. Staff does not recommend any changes to the proposal as a result of these comments.

The commenter that agreed with the proposal, if modified, indicated that the rules should “include accountability for Crimes against Humanity.” As the Committee is aware, the Application for Determination of Moral Character requests each applicant’s criminal history.

One of the commenters who agreed with the proposal attached a “Right to Sue Notice” from the California Civil Rights Department. The two unrelated attachments have been omitted from the Public Comment Chart.

FISCAL/PERSONNEL IMPACT

Staff anticipates that the streamlined rules proposals will positively impact staff resources because: 1) the clarified rules may reduce the number of applicant inquiries and 2) creating consistency within the rules may aid the processing of applications.

RECOMMENDATIONS

It is recommended that the Committee of Bar Examiners request adoption of the proposed rules, as circulated for public comment and set forth in Attachments B and C.

PROPOSED MOTION

Should the Committee of Bar Examiners agree with the staff recommendation, the following motion should be made:

MOVE, that the Committee of Bar Examiners recommends that the Board of Trustees adopt the rule revisions set forth in Attachments B and C and request approval of the rule changes by the Supreme Court.

ATTACHMENTS LIST

- A. Public Comment Chart
- B. Proposed Amendments to Title 4 of the Rules of the State Bar Relevant to Moral Character (Redline)
- C. Proposed Amendments to Title 4 of the Rules of the State Bar Relevant to Moral

¹ A positive determination of moral character is also required for limited admission to practice law in California, such as Registered In-House Counsel, by section 6062 of the Business and Professions Code.

Character (Clean)

Public Comment Chart

Attachment A

Name	Position on Proposed Rule	Comment (Verbatim)	Response to Comment
Frederick Mitchell	D	<p>The moral character evaluation is a ruse. No actual state agency requires this unnecessary invasion of privacy. A Department of Justice background check is sufficient. Further, the number of corrupt judges and attorneys in California proves that the moral character evaluation is merely for profit and is a discriminatory arbitrary tool used to instill fear in applicants, primarily minorities and those applicants who disagree with the state bar's onerous lawlessness. This practice is another reason why the State Bar should be disbanded. The State Bar has unconstitutionally privatized the practice of law.</p> <p>The State of California should register law school graduates to practice law and strike the State Bar from our constitution. The State of California should subsequently pay reparations to every attorney and to every person denied admissions to the state bar dating back to the founding of this racketeering influenced and corrupt organization.</p>	No change. Staff thanks the commenter for the submission, but the comment goes beyond the scope of the proposal.
John Holman	A	<p>To Whom it May Concern</p> <p>I have just received the Right to Sue from DFEH on the Sugar Workers Union located in Crockett C,A. It is in regards to the Sugar Workers Union #1 dereliction of duty, can you please help me recover my loses due to their selective duty of who they will and will not represent. I was abandoned by them and left to defend my self against the company C&H Sugar, I received two right to sue notices (federal and state) I fought and won my case by myself, which cost me close to \$100,000.00 and that is me being generous to the Sugar Workers Union #1, as my losses are actually much worse and more than that. After settling the discrimination case with C&H Sugar, I went to the DFEH and filed a complaint against the Sugar Workers Union for the discrimination and to be recompensated for my losses. I received a Right To Sue for the Sugar Workers Union #1, from what I understand federal and state laws prohibits discrimination, which gives me grounds to contact the Union (Sugar Workers Union#1, Ritchie Thakers) to help me become as close to whole again after denying me representation which cost my family and I over \$100,00.00 for a case that had merit. I believe the Sugar Workers Union is obligated by law to represent me in a discriminatory situation as a protected class of people due to my disability. I have asked them for help and Ritchie Thaker has completely and totally denied me any assistance. Now I have become completely disabled because of this incident and can no longer work forcing me onto SSDI. Can you please help me with this,I feel like I have been strongly discriminated against, but it's by the Sugar Workers Union not the Company and the Business agent Ritchie Thakers is intentionally denying me help, the Sugar Workers Union has even made threats because of me asking them for representation. I believe Ritchie's motives are because of my disability and Ritchie is retaliating against me for the company.(his motive for that is</p>	No change. Staff thanks the commenter for the submission, but the comment goes beyond the scope of the proposal.

Name	Position on Proposed Rule	Comment (Verbatim)	Response to Comment
		<p>because the company pays his medical so he doesn't want to jeopardize losing his medical insurance like he let happen to me and my family who have preexisting medical conditions.) Thank You so much for any and all efforts into helping me get some closer on this situation.</p> <p>Sincerely</p> <p>John Holman 602-743-4278 johnholman09@gmail.com</p>	
Melodie Grace	A		No change.
Corina A. Yetter	A	I am in favor of clarification and simplified process that also makes it easier to prevent those who are subject to criminal prosecution for crimes of moral turpitude from practicing law while their case is pending.	No change.
Raymond Yeung	A	The existence of vague rules and regulations concerning admissibility to the practice of law erodes public trust in the bar association. The legal profession has historically been stereotyped as being exclusive and elitist, and moreover, it is often speculated that minority applicants are disproportionately burdened by inconsistent application of standards. Whether that is true or false, it is objectively true that the legal system has a history of attempting to exclude minorities through "nickel-and-dime" tactics in the licensing process. Public trust in the licensing system is crucial to the legitimacy of the legal profession, and part of earning that trust is consistent application of clear rules.	No change.
Anonymous	A	atty should be given latitude to contest findings or rulings of the court since they are the most knowledgeable and it is them who has the most at stake.	No change.
CMorrison	AM	To include accountability for Crimes against Humanity www.crimesstate.com , see ICC complaint	No change. The application requests specific information from each applicant, including their criminal history.
Raymond Scott Hayden	A		No change.
Adele Schneidereit	D		No change.
Darrell Griffin Jr	D	Too often lawyers with serious moral issues are allowed to practice while people with minor misdemeanor cannabis charges are prevented from practicing. People who have previously participated in "fraternity" pranks that killed people should never have been allowed to practice.	No change. Staff disagrees with the commenter's observations. There is no act of misconduct that, in and of

Name	Position on Proposed Rule	Comment (Verbatim)	Response to Comment
			itself, automatically disqualifies an individual from obtaining a positive moral character determination.

*Two attachments unrelated to the proposals are not included.

Legend

- A = Agree with proposed rule
- AM = Agree if modified
- D = Disagree with proposed rule

TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

Adopted July 2007

DIVISION 1. ADMISSION TO PRACTICE LAW IN CALIFORNIA

Chapter 1. General Provisions

Rule 4.3 Definitions

These definitions apply to the rules in this Division unless otherwise indicated.

- (A) An “American Bar Association Approved Law School” is a law school fully or provisionally approved by the American Bar Association and deemed accredited by the Committee.
- (B) An “attorney applicant” is an applicant who is or has been admitted as an attorney to the practice of law in any jurisdiction.
- (C) The “Attorneys’ Examination” is the California Bar Examination for which attorney applicants may apply, provided they have been admitted to the active practice of law in a United States jurisdiction at least four years immediately prior to the first day of administration of the examination and have been in good standing during that period. The Attorneys’ Examination includes essay questions and performance tests of the General Bar Examination but not its multiple-choice questions.
- (D) A “California accredited law school” is a law school accredited by the Committee but not approved by the American Bar Association.
- (E) The “California Bar Examination” is the examination administered by the Committee that an applicant must pass to be certified to the California Supreme Court as qualified for admission to practice law in California. The California Bar Examination includes the General Bar Examination and the Attorneys’ Examination.
- (F) “The Committee” is the Committee of Bar Examiners of the State Bar of California or, unless otherwise indicated, a subcommittee of two or more of its members ~~whom~~ which the Committee authorizes to act on its behalf.
- (G) “Director of Admissions” or “Director, Admissions” means the Director of the State Bar Office of Admissions, or that person’s designee.
- (H) A “general applicant” is an applicant who has not been admitted as an attorney to the practice of law in any jurisdiction.
- (I) The “General Bar Examination” is the California Bar Examination required of every general applicant. The General Bar Examination consists of multiple-choice questions, essay questions, and performance tests.

- (J) The “First-Year Law Students’ Examination” is the examination that an applicant must pass, unless otherwise exempt.³ It includes questions on contracts, torts, and criminal law.
- (K) An “informal conference” is ~~defined in Rule 4.45.~~ a meeting with an applicant initiated by the State Bar for the purpose of discussing issues relevant to an applicant’s moral character determination.
- (L) The “Office of Admissions” (“Admissions”) is the State Bar office authorized by the Board of Trustees and the Committee to administer examinations and otherwise act on their behalf.
- (M) “Receipt” of a document that the State Bar or Committee sends an applicant is:
- (1) calculated ~~from~~ as the date of ~~mailing and is deemed to be electronic transmission or five~~ 5 days from the date of mailing to a California address; ~~ten~~ 10 days from the date of mailing to an address elsewhere in the United States; and ~~twenty~~ 20 days from the date of mailing to an address outside the United States; or
 - (2) when the State Bar or Committee delivers a document physically by personal service or otherwise.
- (N) “Receipt” of a document sent to the State Bar or Committee is when it is physically received at the Office of Admissions or the date of electronic transmission if permitted to be sent electronically.
- (O) An “unaccredited law school” is a correspondence, distance-learning, or fixed-facility law school operating in California that the Committee registers but does not accredit.
- (P) For purposes of calculating law study credit toward meeting the legal education requirements necessary to qualify to take the First-Year Law Students’ Examination and California Bar Examination, a “year” is defined as the law study successfully completed in the time between the same calendar dates for consecutive calendar years, minus one day.

Rule 4.3 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.5 Submissions

- (A) A document filed with the State Bar or Committee pursuant to these rules must be

³ Business & Professions Code § 6060(h).

completed according to instructions; verified or made under penalty of perjury;⁴ and submitted with any required fee.

- (B) A document, which must be complete as defined by the instructions for filing, is deemed filed upon receipt.
- (C) The information obtained by the State Bar as a result of the fingerprinting of an applicant is used to establish identity of the applicant, to determine the moral character of the applicant, and to disclose criminal records of the applicant in California or elsewhere. Any information obtained as a result of fingerprint submission is confidential and for official use of the Committee and the State Bar.
- (D) Information on an examination application that is not required, but is submitted voluntarily by an applicant, including ~~ethnic survey and identification information furnished with applications to take the California Bar Examination~~ demographic data or other identifying information, is separated from the applications at initial processing and may not be associated with applicants, their files, or their examination answers during grading unless there is reasonable doubt about the identity of a person taking an examination and the State Bar requires the information to verify identity.

Rule 4.5 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.6 Investigations and Hearings [REPEALED]

~~In conducting an investigation or hearing, the Committee or the State Bar Court may receive evidence; administer oaths and affirmations; and compel by subpoena the attendance of witnesses and the production of documents.~~

Rule 4.6 adopted effective September 1, 2008.

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~~ they are 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.

⁴ Code of Civil Procedure § 2015.5.

Rule 4.41 Application for Determination of Moral Character

- (A) ~~An applicant must submit an~~ Application for Determination of Moral Character may be submitted after an Application for Registration has been approved. 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 must be accompanied by fingerprints and the fee set forth in the Schedule of Charges and Deadlines ~~may be submitted any time after filing an Application for Registration but is deemed filed only when the application is complete. The application will be deemed filed when the State Bar has determined it to be complete.~~
- (C) An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending, or otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.

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 Uppdate Application for Determination of Moral Character

Until ~~admitted to practice law,~~ an applicant has taken the attorney's oath, the applicant who has submitted an Application for Determination of Moral Character has a continuing duty to ~~promptly~~ notify the Office of Admissions, within 30 days, whenever information provided in the application has changed or there is new information relevant to the application. Failure to provide updated or additional information within ~~thirty~~ 30 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.~~

(A) Once an application is deemed incomplete by the State Bar and the State Bar provides

the applicant with an incomplete notice describing the deficiencies, the applicant will have 60 days from the date of the notice to cure the deficiencies. If the applicant fails to cure the deficiencies within 60 days, the application will be deemed abandoned, absent a showing of good cause.

- (B) An application that has been deemed complete and filed will be deemed abandoned if the applicant fails to respond to a request for information or documentation within 90 days of the request, absent a showing of good cause.
- (C) An applicant may request a review by the Committee of the State Bar's decision to deem an application abandoned within 30 days of service of the notice of abandonment.
- (D) ~~A new~~ Once an Application for Determination of Moral Character has been deemed abandoned, the applicant must be submitted a new, complete Application for Determination of Moral Character with the required fee and fingerprints if an application has been abandoned to obtain a moral character determination. The State Bar may retain an abandoned application as part of the applicant's file.

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. An applicant who withdraws an application is ineligible for a refund of fees. The State Bar may retain a withdrawn application as part of the applicant's file.
- ~~(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 date on which the State Bar deems an application to be complete and filed,~~ the State Bar will ~~notifies an~~ the applicant ~~that its determination of whether the applicant has received a positive moral character determination is positive or that it the application 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.~~

(B) If the State Bar requests additional information after the application is deemed complete and filed, Wwithin 120 days of receiving additional the requested information ~~it has requested~~, the State Bar will notify~~ies~~ 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~~ will be invited to an informal conference; or
- (5) the applicant is ~~advised to enter into~~ offered 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~~ will invite the applicant to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and ~~declining it entails~~ no negative inference will be drawn from an applicant's decision to decline to participate in an informal conference.
- (B) The Committee may establish procedures for an informal conference, ~~with the State Bar and require the State Bar to create~~ which shall include creating a record of it by tape audio 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 and will have an opportunity to present information for consideration.~~ 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~~6~~.1 Request for Review by the Committee of an Adverse Determination

- (A) An applicant notified of an adverse determination by the State Bar 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 a~~ 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 State Bar must notify the applicant of ~~its~~ the Committee's final determination within 30 days of its decision.

Rule 4.47.1 adopted effective September 1, 2019.

Rule 4.47 ~~Appeal of Request for Hearing on an~~ Adverse Determination of Moral Character Issued by the 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~~ submitted with the fee set forth in the Schedule of Charges and Deadlines within ~~sixty~~ 60 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 or Committee~~ may suspend processing of an Application for Determination of Moral Character ~~by upon the State Bar or the Committee and an applicant entering into~~ 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~~ a substance use issue; or
 - (4) ~~if~~ when 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 of the agreement must be provided to the applicant.
- (C) Once the abeyance period has concluded or the conditions of abeyance have been satisfied, the State Bar or the Committee will continue processing the application.

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

Rule 4.49 New Application Following an Adverse Determination of Moral Character

~~The State Bar may permit a~~An applicant who has received an adverse moral character determination ~~to may file submit~~ 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 or the Committee, 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 a Positive Determination of Moral Character

- (A) ~~Before certifying an applicant for admission to the practice of law~~ At any time before an applicant has taken the attorney's oath, the State Bar may notify ~~an the~~ applicant that it has suspended a positive ~~determination of~~ moral character determination 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 moral character determination has been suspended is processed in accordance with Rule 4.45.
- (C) The State Bar will send an applicant who has received a positive moral character determination and is not yet certified to the California Supreme Court as qualified for admission to practice law in California a questionnaire to complete 18 months after the issuance of the determination. If an applicant fails to respond to the questionnaire within 60 days of the date on which it was sent, the positive determination will be suspended. The positive determination may be reinstated upon receipt of the completed questionnaire.

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 a Positive Moral Character Determination

A positive ~~determination of~~ moral character determination is valid for ~~thirty-six~~ 36 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 a 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 6 months of the initial thirty-six 36-month validity period of a positive moral character determination, with the required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. The application will be deemed filed when the State Bar has determined it to be complete. 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. Failure to submit an Application for Extension of Determination of Moral Character within this time period will result in expiration of the applicant's positive 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.~~

(B) An applicant may submit subsequent Applications for Extension of Determination of Moral Character if needed. If an applicant fails to submit an Application for Extension of Determination of Moral Character prior to the expiration of the positive determination, the applicant must submit a new Application for Determination of Moral Character with the required fees and fingerprints to obtain a moral character determination.

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

TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

Adopted July 2007

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Chapter 1. General Provisions

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- (C) The “Attorneys’ Examination” is the California Bar Examination for which attorney applicants may apply, provided they have been admitted to the active practice of law in a United States jurisdiction at least four years immediately prior to the first day of administration of the examination and have been in good standing during that period. The Attorneys’ Examination includes essay questions and performance tests of the General Bar Examination but not its multiple-choice questions.
- (D) A “California accredited law school” is a law school accredited by the Committee but not approved by the American Bar Association.
- (E) The “California Bar Examination” is the examination administered by the Committee that an applicant must pass to be certified to the California Supreme Court as qualified for admission to practice law in California. The California Bar Examination includes the General Bar Examination and the Attorneys’ Examination.
- (F) “The Committee” is the Committee of Bar Examiners of the State Bar of California or, unless otherwise indicated, a subcommittee of two or more of its members which the Committee authorizes to act on its behalf.
- (G) “Director of Admissions” or “Director, Admissions” means the Director of the State Bar Office of Admissions, or that person’s designee.
- (H) A “general applicant” is an applicant who has not been admitted as an attorney to the practice of law in any jurisdiction.
- (I) The “General Bar Examination” is the California Bar Examination required of every general applicant. The General Bar Examination consists of multiple-choice questions, essay questions, and performance tests.

- (J) The “First-Year Law Students’ Examination” is the examination that an applicant must pass, unless otherwise exempt. It includes questions on contracts, torts, and criminal law.
- (K) An “informal conference” is a meeting with an applicant that is initiated by the State Bar for the purpose of discussing issues relevant to an applicant’s moral character determination.
- (L) The “Office of Admissions” (“Admissions”) is the State Bar office authorized by the Board of Trustees and the Committee to administer examinations and otherwise act on their behalf.
- (M) “Receipt” of a document that the State Bar or Committee sends an applicant is:
 - (1) calculated as the date of electronic transmission or 5 days from the date of mailing to a California address; 10 days from the date of mailing to an address elsewhere in the United States; and 20 days from the date of mailing to an address outside the United States; or
 - (2) when the State Bar or Committee delivers a document physically by personal service or otherwise.
- (N) “Receipt” of a document sent to the State Bar or Committee is when it is physically received at the Office of Admissions or the date of electronic transmission if permitted to be sent electronically.
- (O) An “unaccredited law school” is a correspondence, distance-learning, or fixed-facility law school operating in California that the Committee registers but does not accredit.
- (P) For purposes of calculating law study credit toward meeting the legal education requirements necessary to qualify to take the First-Year Law Students’ Examination and California Bar Examination, a “year” is defined as the law study successfully completed in the time between the same calendar dates for consecutive calendar years, minus one day.

Rule 4.3 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.5 Submissions

- (A) A document filed with the State Bar or Committee pursuant to these rules must be completed according to instructions; verified or made under penalty of perjury;⁴

⁴ Code of Civil Procedure § 2015.5.

and submitted with any required fee.

- (B) A document, which must be complete as defined by the instructions for filing, is deemed filed upon receipt.
- (C) The information obtained by the State Bar as a result of the fingerprinting of an applicant is used to establish identity of the applicant, to determine the moral character of the applicant, and to disclose criminal records of the applicant in California or elsewhere. Any information obtained as a result of fingerprint submission is confidential and for official use of the Committee and the State Bar.
- (D) Information on an examination application that is not required, but is submitted voluntarily by an applicant, including demographic data or other identifying information, is separated from the applications at initial processing and may not be associated with applicants, their files, or their examination answers during grading unless there is reasonable doubt about the identity of a person taking an examination and the State Bar requires the information to verify identity.

Rule 4.5 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.6 Investigations and Hearings [REPEALED]

Rule 4.6 adopted effective September 1, 2008.

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 they are 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 Application for Determination of Moral Character may be submitted after an Application for Registration has been approved.
- (B) An Application for Determination of Moral Character must be accompanied by fingerprints and the fee set forth in the Schedule of Charges and Deadlines. The

application will be deemed filed when the State Bar has determined it to be complete.

- (C) 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.

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 an applicant has taken the attorney's oath, the applicant has a continuing duty to notify the Office of Admissions, within 30 days, when information provided in the application has changed or there is new information relevant to the application. Failure to provide updated or additional information within 30 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) Once an application is deemed incomplete by the State Bar and the State Bar provides the applicant with an incomplete notice describing the deficiencies, the applicant will have 60 days from the date of the notice to cure the deficiencies. If the applicant fails to cure the deficiencies within 60 days, the application will be deemed abandoned, absent a showing of good cause.
- (B) An application that has been deemed complete and filed will be deemed abandoned if the applicant fails to respond to a request for information or documentation within 90 days of the request, absent a showing of good cause.
- (C) An applicant may request review by the Committee of the State Bar's decision to deem an application abandoned within 30 days of service of the notice of abandonment.
- (D) Once an Application for Determination of Moral Character has been deemed abandoned, the applicant must submit a new, complete Application for Determination of Moral Character with the required fee and fingerprints to obtain a moral character determination. The State Bar may retain an abandoned application as part of the applicant's file.

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. An applicant who withdraws an application is ineligible for a refund of fees. The State Bar may retain a withdrawn application as part of the applicant's file.

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 the date on which the State Bar deems an application to be complete and filed, the State Bar will notify the applicant whether the applicant has received a positive moral character determination or the application requires further consideration.
- (B) If the State Bar requests additional information after the application is deemed complete and filed, within 120 days of receiving the requested information, the State Bar will notify the applicant that:
 - (1) the applicant is determined to be of good moral character;
 - (2) the application requires further consideration;
 - (3) the applicant will be invited to an informal conference; or
 - (4) the applicant is offered 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 will invite the applicant to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and no negative inference will be drawn from an applicant's decision to decline to participate in an informal conference.
- (B) The Committee may establish procedures for an informal conference, which shall include creating a record of it by audio recording, video recording, or any other means. The applicant may attend the conference with counsel and will have an opportunity to present information for consideration. 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 4.46.1 Request for Review by the Committee of an Adverse Determination

- (A) An applicant notified of an adverse determination by the State Bar of moral character may request 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 a request for a review, the Committee will conduct a review of the record, which may include a review of the recording of the informal conference. The Committee may request additional information from the applicant or from the State Bar. The State Bar must notify the applicant of the Committee's final determination within 30 days of its decision.

Rule 4.47.1 adopted effective September 1, 2019.

Rule 4.47 Request for Hearing on an Adverse Determination of Moral Character Issued by the Committee

- (A) If the Committee issues an adverse determination of moral character, an applicant may file a request for hearing with the State Bar Court in accordance with the Rules of Procedure of the State Bar. The request must be submitted with the fee set forth in the Schedule of Charges and Deadlines within 60 days of the date of service of the notice of adverse determination.

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 or Committee may suspend processing of an Application for Determination of Moral Character upon the State Bar or the Committee and an applicant entering into 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 a substance use issue; or
 - (4) when 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 of the agreement must be provided to the applicant.

- (C) Once the abeyance period has concluded or the conditions of abeyance have been satisfied, the State Bar or the Committee will continue processing the application.

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

Rule 4.49 New Application Following an Adverse Determination of Moral Character

An applicant who has received an adverse moral character determination may submit 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 or the Committee, 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 a Positive Determination of Moral Character

- (A) At any time before an applicant has taken the attorney's oath, the State Bar may notify the applicant that it has suspended a positive moral character determination 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 moral character determination has been suspended is processed in accordance with Rule 4.45.
- (C) The State Bar will send an applicant who has received a positive moral character determination and is not yet certified to the California Supreme Court as qualified for admission to practice law in California a questionnaire to complete 18 months after the issuance of the determination. If an applicant fails to respond to the questionnaire within 60 days of the date on which it was sent, the positive determination will be suspended. The positive determination may be reinstated upon receipt of the completed questionnaire.

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 a Positive Moral Character Determination

A positive moral character determination is valid for 36 months.

Rule 4.51 adopted effective September 1, 2008.

Rule 4.52 Extension of a 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 in the last 6 months of

the 36-month validity period of a positive moral character determination, with required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. The application will be deemed filed when the State Bar has determined it to be complete. Failure to submit an Application for Extension of Determination of Moral Character within this time period will result in expiration of the applicant's positive determination.

- (B) An applicant may submit subsequent Applications for Extension of Determination of Moral Character if needed. If an applicant fails to submit an Application for Extension of Determination of Moral Character prior to the expiration of the positive determination, the applicant must submit a new Application for Determination of Moral Character with the required fee and fingerprints to obtain a moral character determination.

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