

## **EXCERPT**

### TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

Adopted July 2007

#### DIVISION 1. ADMISSION TO PRACTICE LAW IN CALIFORNIA

##### Chapter 6. Conduct At Examinations

###### Rule 4.70 Conduct required at examinations

- (A) Applicants are expected to conduct themselves professionally at all times at an examination test center.
- (B) Conduct that violates the security, integrity 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.~~ will be recorded on a Notice of Violation of Examination Rules or Policies form (hereafter referred to as a Chapter 6 Notice), reported to the State Bar, and delivered to the applicant during or following the examination. In addition to receiving a Chapter 6 Notice, applicants who engage in disruptive and/ or abusive behavior will be dismissed from the test center by State Bar staff. What constitutes disruptive and/or abusive behavior resulting in dismissal is determined in the sole discretion of a State Bar representative. 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.
- (C) Conduct that violates the security, integrity, or administration of the exam includes, but is not limited to, the following:
  - (1) Possession of unauthorized electronic or battery-operated devices, other non-electronic unauthorized items, or use of items in an unauthorized manner. This includes, but is not limited to, cell phones, digital clocks, digital timers, fitness trackers, or digital watches, other than the applicant's authorized laptop or implantable or approved external medical devices; use of pencils on the written portion of the exam and possession or use of any other items the State Bar has identified as unauthorized in exam bulletins or on its website.
  - (2) Engaging in behavior that is disruptive or physically or verbally abusive to State Bar staff, proctors, other applicants, or facility staff, at any time during the days on which the exam is being administered.
  - (3) Cheating or attempting to cheat by, for example, use of unallowable notes, looking At another applicant's answer, having an individual pose as the applicant, writing, typing, or altering answer files after time is called.
  - (4) Attempting to bypass or avoid the remote proctoring protocols, including by as Seeking to receive assistance on the exam, leaving the view of the camera(s), or disrupting video or audio during remote examinations.

- (D) The State Bar shall post on its website examples of items possession of which are deemed conduct that violates the security, integrity, or administration of an examination. The State Bar shall also post on its website's examples of external medical devices that are permitted in the exam.

*Rule 4.70 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.*

Rule 4.71 ~~Reports of conduct violations~~ Sanctions

- (A) Issuance of a Chapter 6 Notice may result in the imposition of a sanction or sanctions. Sanctions may include, but are not limited to, warnings, reduction of the score for a question, session, or entire examination, or assigning a score of zero for a question, session, or entire examination. 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) The Committee shall identify which conduct violations are disputable and which are indisputable.
- (1) Indisputable violations are those that the Committee has deemed subject to an automatic zero or score reduction, regardless of the applicant's intent. The violations are easily verifiable with the State Bar possessing clear and convincing evidence of the violation. For indisputable violations, there is no right to contest the determination of the violation or the sanction.
- (2) Disputable violations are all other violations that are not identified as indisputable. The State Bar has the burden of establishing by clear and convincing evidence that a violation occurred. Repeated offenses in the same category of violations will result in more serious sanctions. For disputable violations, an applicant may contest the staff finding that a violation occurred or the amount of the sanction.

~~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. Conduct resulting in any sanction may be reported to the State Bar's Moral Character Unit as a matter of course.
- (D) Receipt of a sanction which reduces an applicant's score, results in a zero being assigned, shall not be cause for a refund of examination fees.

- (E) The State Bar shall post on its website a list of both indisputable and disputable conduct violations and their corresponding sanctions.

*Rule 4.71 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.*

Rule 4.72 ~~Request for an administrative hearing on conduct violation~~ Reports of Conduct Violations

- (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. Applicants who receive a Chapter 6 Notice shall have ten (10) days from the date of receipt of the Chapter 6 Notice to respond. Responses shall be submitted via email through the Applicant Portal of the Admissions Information Management System (AIMS).
- (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. Following the conclusion of the 10 days or upon receipt of an applicant's response, the State Bar will either affirm or disaffirm the Chapter 6 Notice in writing. The Notice affirming or disaffirming the Chapter 6 Notice shall be transmitted to the applicant electronically via email by no later than thirty-five (35) days from the last day of the examination during which the Chapter 6 Notice was issued, if the Chapter 6 Notice was issued during an examination. If the Chapter 6 Notice was issued subsequent to the exam, the Notice affirming or disaffirming shall be sent no later than thirty-five (35) days after the State Bar becomes aware of the conduct violation.
- (C) The State Bar's written decision to affirm a Chapter 6 Notice will include findings and recommendations and will indicate whether the conduct violation is disputable or indisputable. The State Bar has the burden of establishing by clear and convincing evidence that a violation occurred.
- (1) If the conduct violation is disputable, applicants will have ten (10) days from receipt of the written decision affirming the Chapter 6 Notice to request an administrative hearing by the Committee and to provide any documentation in support thereof.
  - (2) Following review of the materials submitted pursuant to (C)(1), the Director or their Designee may rescind the State Bar's written decision to affirm the Chapter 6 Notice at any time prior to the administrative hearing.
  - (3) The administrative hearing will take place at the next regularly scheduled Committee meeting that is at least 30 days after the date of the receipt of the applicant's request for an administrative hearing and all documentation in support thereof.

- (D) If the applicant does not request an administrative hearing of the State Bar's sanction within ten days of receipt of the Notice, the State Bar's determination become the decision of the Committee.
- (E) Exam results for applicants who are sanctioned as the result of conduct violation(s) will be released at the same time as the results are released for all other applicants. If the applicant receives a disputable conduct violation, and the administrative hearing and/or appeal process is still pending after the release of results, the applicant's score or result will be revised to reflect the final decision of the Director, Committee, or California Supreme Court.

*Rule 4.72 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.*

Rule 4.73 ~~Procedure for an administrative hearing on conduct violation~~ Administrative Hearing by the Committee

- (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. During an administrative hearing conducted under this Chapter, the Committee will consider the State Bar's findings and recommendations contained in the Notice affirming the conduct violation. The Committee will also consider any documentation submitted in support of an applicant's request for an administrative hearing. The Committee may request additional information from the State Bar or the applicant. 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. Following the administrative hearing, the Committee may adopt the State Bar's written decision to affirm the Chapter 6 Notice, including some or all of the findings and recommendations, modify the State Bar's written decision to affirm the Chapter 6 Notice, or take any other action it deems appropriate. The Committee will issue a written decision no later than ten (10) days following the administrative hearing.~~
- (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. The applicant may contest the decision of the Committee by requesting a review by the Supreme Court of California in accordance with its procedures and as described in Rule of Court 9.13(d).~~

*Rule 4.73 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.*

Rule 4.74 ~~Review of State Bar's Findings and Recommendations by Committee~~

- ~~(A) — An applicant may request review by the Committee of the Findings and Recommendations within ten days of service. The Committee must consider the applicant's request, any record of the hearing, the Findings and Recommendations, and any supplemental material the applicant provides in accordance with Committee requirements during the Committee's next regularly scheduled meeting. The Committee may request additional information from the applicant or from the State Bar.~~
- ~~(B) — The Committee may adopt the State Bar's Findings and Recommendations or take any other action it deems appropriate.~~
- ~~(C) — The Committee will notify the applicant within ten days of its determination.~~
- ~~(D) — If the applicant does not request review of the State Bar's Findings and Recommendations within ten days of service, the State Bar's Findings and Recommendations become the decision of the Committee.~~

~~Rule 4.74 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.~~