



The State Bar of California

OPEN SESSION AGENDA ITEM V.A JANUARY 2024 COMMITTEE OF BAR EXAMINERS

DATE: January 26, 2024

TO: Members, Committee of Bar Examiners

FROM: Bethany Peak, Committee of Bar Examiners
Vince Reyes, Committee of Bar Examiners
Tara Clark, Program Director, Operations, Office of Admissions
David Lane, Attorney, Moral Character Determinations

SUBJECT: Action on Revisions to the Moral Character Rules: Recommendation to Circulate Revised Rules for Public Comment

EXECUTIVE SUMMARY

Revisions to Rules of the State Bar related to Moral Character (Moral Character Rules) came before the Committee of Bar Examiners (CBE) and the Board of Trustees (Board) in 2022 and 2023. In July 2023, the revised rules were submitted to the California Supreme Court for approval. On September 20, 2023, the Court denied the proposed changes to the rules.

In 2023, the CBE and the Board also reviewed proposed revisions to rule 4.41 and circulated them for public comment. However, following the Court's rejection of the prior rules proposal, the revisions to rule 4.41 have been incorporated into the overall revisions to the Moral Character Rules.

Following the Court's denial, the proposed rules have been further revised. The working group recommends that the CBE advance the revised proposal to the Board to circulate for a 60-day public comment period.

BACKGROUND

The Office of Admissions is continuing its review of all rules, procedures, and practices. The goals of this review include ensuring clarity for applicants and 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obligations, and updating obsolete or outdated rules, procedures, and practices.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 the aim of ensuring that all are necessary and appropriate for public protection and do not impose an unnecessary barrier to admission. In evaluating the rules and processes, the working group examined questions received from applicants, common areas of misunderstanding or confusion amongst applicants, and applications from other jurisdictions.

Moral Character Rules

On October 14, 2022, the CBE recommended that the Board circulate the rules revisions for public comment. The Board agreed, and the proposed revisions were circulated for a 60-day public comment period. A total of 11 submissions were received, one of which included only an unrelated attachment with no comment. Of the 10 written comments received, 6 agreed with the proposal as circulated, 1 agreed if modified, and 3 disagreed. The working group recommended no changes to the proposed revisions after reviewing public comment. On March 24, 2023, the CBE agreed and approved sending the revised rules to the Board for adoption and submission to the Supreme Court for approval. At its May 18-19, 2023 meeting, the Board adopted the revised rules and directed staff to submit them to the Supreme Court for approval. On September 20, 2023, the Court denied the proposed rules revisions (Attachment A). The Court provided a letter concerning the denial in which it requested more details regarding the proposed changes, raised issues related to the proposed revisions to rule 4.52, and directed that the rules be standardized to incorporate the term “receipt” as it is defined in rule 4.3(M).

Rule 4.41

Rule 4.41 of the Rules of the State Bar currently prohibits out-of-state attorneys who are disbarred or otherwise not in good standing for disciplinary reasons from submitting a moral character application. On March 24, 2023, the CBE recommended that the Board circulate for public comment a proposed revised rule 4.41 that would allow an out-of-state attorney who is not in good standing to submit a moral character application, while providing for a rebuttal presumption that the attorney does not possess the good moral character. The Board agreed, and the proposed revised rule was circulated for a 60-day public comment period. One comment in agreement with the proposal was received; therefore, the working group suggested no changes to the proposal. On August 18, 2023, the CBE agreed and approved sending the revised rule to the Board for adoption and submission to the Supreme Court for approval. However, the revisions to rule 4.41 were not forwarded to the Board for adoption since the State Bar received the Supreme Court’s rejection of the Moral Character Rules prior to the Board meeting. The changes to rule 4.41 have now been incorporated into the broader revisions to the Moral Character Rules.

The working group has recommended further revisions to the Moral Character Rules. A copy of the Proposed Amendments to the Moral Character Rules is included as Attachment B.

DISCUSSION

The agenda items for the [October 12, 2022 CBE meeting](#), [November 17-18, 2022 Board meeting](#), [March 24, 2023 CBE meeting](#), and [May 18-19, 2023 Board meeting](#) provide background regarding the previous recommended revisions to the Moral Character Rules.

The agenda items for the [March 24, 2023 CBE meeting](#), the [May 18-19, 2023 Board meeting](#), and the [August 18, 2023 CBE meeting](#) provide additional background describing the recommended revisions to rule 4.41.

Generally, the proposed rule changes are intended to add pertinent information not currently encapsulated in the rules, eliminate outdated information, ensure consistency within the rules, and address the Court's feedback. The most substantive proposed revisions are discussed below.

Rule 4.3 provides definitions of terms used in the rules. Proposed changes to this rule are limited to terms that directly relate to the Moral Character Rules. The proposed changes include defining the terms "informal conference" and "State Bar." Additionally, the working group proposes adding "electronic transmission" to the definition of "receipt" in subsections (M) and (N), as the Office of Admissions primarily sends and receives information electronically since implementation of the Admissions Information Management System (AIMS).

Rule 4.6 states what the CBE or the State Bar Court may do during an investigation or hearing, such as compel the attendance of witnesses and the production of documents by subpoena. The proposed change eliminates the rule as it is inaccurate and unnecessary¹.

Rule 4.41 states when an Application for Determination of Moral Character may be submitted, and what must be included with the submission for the application to be deemed complete. The previously circulated changes to rule 4.41 created a new subsection that addressed out-of-state attorneys who are disbarred or currently not in good standing for disciplinary reasons, which allowed these attorneys to submit an Application for Determination of Moral Character while creating a rebuttable presumption that the applicant does not possess the requisite moral character for licensure. However, upon further review, the working group recommends eliminating any reference to out-of-state attorneys who are disbarred or currently not in good standing for disciplinary reasons and the rebuttable presumption, as it is unnecessary given relevant Supreme Court case law that already imposes a relatively higher burden of showing rehabilitation on attorney applicants with disciplinary history. These changes will 1) allow all applicants to submit an Application for Determination of Moral Character and provide the State Bar the opportunity to make a determination on each individual case, 2) eliminate the complete deference given to the jurisdiction that imposed discipline on an applicant without allowing the State Bar to consider issues related to the discipline that may be relevant to a moral character determination, and 3) afford the appropriate level of public protection. The working group believes the guiding case law is clear, as it states:

¹ Rule 4.6 became inaccurate when governing statutes such as Business and Professions Code sections 6049 and 6052 were amended to reflect procedural changes that affected the CBE's role in formal hearings. The Rules of Procedure of the State Bar of California govern moral character proceedings in the State Bar Court.

- an applicant who has been disbarred in another state must show by the most clear and convincing evidence that efforts made towards rehabilitation have been successful because the applicant stands in essentially identical circumstances to a disbarred California attorney seeking reinstatement, and the evidence of rehabilitation should therefore be evaluated under the same rigorous standards (*In re Menna* (1995) 11 Cal.4th 975, 986–987.)
- an attorney who has been disbarred in another state is not entitled to have all reasonable doubts resolved in his favor when equally reasonable inferences may be drawn from a proven fact (*In re Menna* (1995) 11 Cal.4th 975, 986.)
- “the more serious the misconduct and the bad character evidence, the stronger the applicant’s showing of rehabilitation must be” (*In re Gossage* (2000) 23 Cal.4th 1080, 1096.)

Other changes to rule 4.41(A) and (B) are meant to clarify the rule. Newly added subsection (C) is proposed to ensure applicants are aware that the Moral Character Rules govern both Applications for Determination of Moral Character and Applications for Extension of Determination of Moral Character.

Rule 4.42 includes a requirement that applicants notify the Office of Admissions of changes or new information relevant to an application until the applicant is admitted to the practice of law. Rule 4.50 permits the State Bar to suspend an applicant’s positive moral character determination before it has certified the applicant for admission to the practice of law. Taken together, the rules suggest that if an applicant who has received a positive determination submits changes or new information relevant to the application after the State Bar has certified the applicant for admission, but before the applicant has been sworn-in, the State Bar cannot suspend the positive determination based on the new information.² The proposed revised rules will promote public protection by allowing the State Bar to suspend a positive moral character determination any time prior to the applicant taking the attorney’s oath.

Rule 4.43 states when an Application for Determination of Moral Character may be deemed abandoned. The revisions to the rule are intended to clarify the process. Additionally, revised subsection (A) states that applicants have 60 days from receipt of notification to cure deficiencies, while the current rule gives the applicant 60 days from the date the application was initiated. Revised subsection (C) is proposed to mirror current practice and ensure transparency in the moral character process.

Rule 4.44(B) states an applicant must file a request to withdraw an application for hearing with the Office of Chief Trial Counsel. The working group proposes eliminating the rule, as it is inconsistent with the Rules of Procedure of the State Bar Court, which require an applicant to file a request to withdraw an application for hearing with the State Bar Court.

Rule 4.45(B) and (C) outline when the State Bar must provide the applicant with a status report

² This scenario has occurred at least twice in recent years. In these instances, since the Office of Admissions was unable to suspend the positive moral character determination, staff referred the information to the Office of Chief Trial Counsel to consider once the applicant was admitted to practice law in California.

or other notification regarding the status of the application. Subsection (B) states that a status report is issued to the applicant at least every 120 days while the application is pending. Subsection (C)(2) provides that, within 120 days of receiving additional information it has requested, the State Bar notifies the applicant if they have not met the burden of establishing good moral character. The working group proposes eliminating subsection (B), since the State Bar is otherwise required to notify the applicant of the status of the application within 120 days of receiving requested information, including whether a positive determination has been granted, further consideration is required, the applicant is invited to an informal conference, or the applicant is offered an Agreement of Abeyance. The working group also proposes eliminating subsection (C)(2), as an adverse determination cannot be rendered unless the applicant has been invited to attend an informal conference. (Rule 4.46(A), Admissions Rules.)

Rule 4.46(B) grants the CBE the authority to establish procedures for an informal conference. The rule also states that the applicant can make a written or oral statement and present documentary evidence at an informal conference. The working group proposes modifying the language so that it more accurately reflects the informal nature of the conference by stating more broadly that the applicant “may present information for consideration.”

Revised rule 4.46.1(B) describes procedural steps that take place following an applicant’s submission of a request for administrative review. The proposed changes mirror rule 4.46(B) and grant the CBE the authority to establish procedures governing a request for administrative review of an adverse moral character determination while still describing some of the significant procedural steps that will occur during an administrative review.

Rule 4.47(B) states that a copy of a request for hearing must be served on the Office of Admissions and the Office of Chief Trial Counsel, and that the CBE must promptly transmit all files related to the application to the Office of Chief Trial Counsel. The working group proposes eliminating the rule, as it is duplicative of the Rules of Procedure of the State Bar Court.

Rule 4.48 states when the State Bar and an applicant may enter into an Agreement of Abeyance. The proposed changes add that the CBE also may enter into an Agreement of Abeyance with an applicant, to reflect the CBE’s option of offering abeyance on administrative review. Subsection (B) is revised to reflect the current practice. Similarly, subsection (C) is created to reflect current practice, in addition to increasing transparency in the moral character process.

Rule 4.49 allows the State Bar to permit an applicant who has received an adverse moral character determination to file another application at a date set by the State Bar. The proposed revised rule allows the CBE or the State Bar Court to determine the reapplication date at the time of the adverse determination.

Rule 4.50(B) states that an application will be processed in accordance with rule 4.45 following a suspension of a positive moral character determination. The proposed changes clarify that the State Bar will notify the applicant within 120 days of the applicant’s receipt of the suspension notification that the positive determination has been reinstated or request additional

information from the applicant. If additional information is requested, the application will then be processed in accordance with rule 4.45(B).

Rule 4.50(C) is proposed to codify a current practice. Although applicants have a continuing duty to provide additional or new information relevant to the application to the Office of Admissions, our experience has demonstrated that applicants do not always independently satisfy this obligation. As a result, around January 2010, the State Bar adopted the practice of sending applicants a questionnaire requesting updated information 18 months after a positive determination had been granted. The proposed rule codifies that practice to ensure that the State Bar receives information necessary to meet its public protection obligation. Under the proposed rule, the State Bar will continue to 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 prompt disclosure of any updated or new information 18 months after the issuance of the positive determination. If the 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 applicant's positive determination may be reinstated once the State Bar receives the completed questionnaire.

Rule 4.51 states the validity period of a positive determination. The proposed revisions provide that a positive determination is valid for 36 months "or until submission of an Application for Extension of Determination of Moral Character," consistent with current practice. The revisions additionally clarify that a valid positive determination is required for certification to the California Supreme Court.

Rule 4.52 states when an applicant may submit an Application for Extension of Determination of Moral Character and the duration and effective date of an extension, if granted. The rule states that a positive determination on an extension application is valid for 36 months from either the end of the initial 36-month validity period (if issued before the initial determination expires) or the date of the new determination (if the initial determination has expired). However, in practice, all positive determinations on extension applications are valid for 36 months from the new determination date, regardless of whether the initial period has expired, or until another extension application is submitted. The proposed revisions to rule 4.51 are consistent with current practice. The working group understands that, because under the revised rules the validity period of a positive determination will end upon submission of an extension application, the duration of the validity period will be shorter for applicants who submit extension applications than it will be for applicants who do not submit extension applications. The working group believes that this is an acceptable cost for applicants who submit extension applications, because it is outweighed by the benefits the applicants receive by being permitted to submit truncated extension applications in which they are required to disclose only new information, at a reduced fee, rather than being required to submit new, full applications upon expiration of the validity period of a positive determination. Subsections (B) and (C) are added to clearly state when the 36-month validity period of a positive determination on an extension application will start, that an applicant may submit multiple extension applications if needed, and the result if the applicant fails to submit an extension application.

The amendments to rules 4.42–4.45, 4.46.1–4.47, and 4.50 are proposed to reflect the definition of “receipt” in rule 4.3.

Proposed changes to other rules are intended to provide clarity, update necessary information, and transition to gender-neutral pronouns.

FISCAL/PERSONNEL IMPACT

The working group anticipates that the streamlined rules proposals will positively impact staff resources by reducing the number of applicant inquiries, and aid in the processing of applications by creating consistency within the rules. The working group further anticipates that adoption of rule 4.40(C) will result in an increase in the number of moral character applications submitted. The amount of the increase is unknown but is anticipated to be small and absorbable with current resources.

RECOMMENDATIONS

It is recommended that the Committee of Bar Examiners request that the Board of Trustees circulate for a 60-day public comment period the rule revisions reflected in Attachment B. It is further recommended that the Committee of Bar Examiners authorizes staff to make nonsubstantive, grammatical changes to the proposed rule revisions set forth in Attachment B, if necessary, before the Board of Trustees reviews the proposed rule revisions.

Should the Committee of Bar Examiners agree with the working group’s recommendation, the following motion should be made:

MOVE, that the Committee of Bar Examiners recommends to the Board of Trustees to circulate the proposed rule revisions set forth in Attachment B for a 60-day public comment period.

FURTHER MOVE, that the Committee of Bar Examiners authorizes staff to make nonsubstantive, grammatical changes to the proposed rule revisions set forth in Attachment B, if necessary, before the Board of Trustees reviews the proposed rule revisions.

ATTACHMENTS LIST

- A. September 20, 2023 Supreme Court Order and Letter
- B. Proposed Amendments to the Moral Character Rules

SEP 20 2023

Jorge Navarrete Clerk

S281003

ADMINISTRATIVE ORDER 2023-09-20-02

Deputy

IN THE SUPREME COURT OF CALIFORNIA

EN BANC

ORDER RE REQUEST FOR APPROVAL OF AMENDMENTS TO CALIFORNIA
RULES OF COURT, RULE 9.42, AND RULES OF THE STATE BAR OF
CALIFORNIA PERTAINING TO MORAL CHARACTER, LAW OFFICE STUDY,
AND THE PRACTICAL TRAINING OF LAW STUDENTS (STATE BAR RULES 3.2-
3.11, 4.3, 4.5, 4.6, 4.29, 4.40-4.52)

On July 18, 2023, the State Bar of California filed a request to approve amendments to California Rules of Court, rule 9.42, and Rules of the State Bar of California pertaining to Moral Character, Law Office Study, and the Practical Training of Law Students (State Bar Rules 3.2-3.11, 4.3, 4.5, 4.6, 4.29, 4.40-4.52). The request is denied.

It is so ordered.

GUERRERO*Chief Justice*

CORRIGAN*Associate Justice*

LIU*Associate Justice*

KRUGER*Associate Justice*

GROBAN*Associate Justice*

Associate Justice

EVANS*Associate Justice*



Supreme Court of California

JORGE E. NAVARRETE
CLERK AND EXECUTIVE OFFICER
OF THE SUPREME COURT

EARL WARREN BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CA 94102
(415) 865-7000

September 20, 2023

SENT VIA USPS AND EMAIL

Leah T. Wilson
Executive Director
State Bar of California
180 Howard Street
San Francisco, California 94102

RE: S281003: Request that the Supreme Court of California Review and Approve Proposed Amendments to California Rules of Court, rule 9.42, and State Bar Rules 3.2–3.11, 4.3, 4.5, 4.6, 4.29, 4.40–4.51

Dear Ms. Wilson:

The State Bar filed a request on July 18, 2023 (Request), for approval of proposed amendments to California Rules of Court, rule 9.42, and to certain State Bar Rules relating to the moral character determinations for attorney admissions, the Law Office Study (LOS) program, and the Practical Training for Law Students (PTLS) program. After careful consideration, the court filed an administrative order today, denying the Request. The purpose of this letter is to provide the State Bar’s Board of Trustees (Board), the Committee of Bar Examiners (Committee), and bar staff with some insight into the court’s concerns with the proposal.

Rules Relating to the Moral Character Determination Process

The Request indicates that the proposed revisions to the State Bar Rules governing the moral character determination process are the result of a comprehensive review of the admissions rules meant “to clarify the State Bar Rules, and to eliminate any State Bar Rules that do not advance the State Bar’s mission or that serve as unnecessary barriers to participation in Admissions programs.” (Request at 9.) While the Request provides a few specific explanations for some of the proposed rule revisions, in most cases, the explanations are insufficient for the court to determine the propriety of the requested revisions. The court urges the State Bar to provide more detailed reasons to support the rule revisions.

For example, the State Bar proposes significant revisions to State Bar Rule 4.52 that are not adequately explained in the Request. In particular, the State Bar proposes to delete two sentences from State Bar Rule 4.52(A) regarding the length of an extension of a positive moral character determination and the effective date of that extension. That language would seem to be important to an applicant who has requested an extension, but the State Bar has not provided a reasonable justification for the deletion.

Further, State Bar Rule 4.3(M) defines “receipt” for purposes of determining the time of receipt of a document that the State Bar sends to an applicant. However, a number of the rules at issue in the Request use different terminology to describe the time frames within which applicants must respond to notices or requests from the State Bar, including, within the same rule, from the “date of the notice” (e.g., State Bar Rule 4.43(A)), from “service of the notice” (State Bar Rule 4.43(C)), or simply from the “request” (State Bar Rule 4.43(B)). If the State Bar transmits these documents electronically, it is not evident whether these various terms are meaningfully different from the revised definition of “receipt” in State Bar Rule 4.3(M). The State Bar should endeavor to standardize the rules governing the moral character application process to incorporate the definition of “receipt” or should explain the reasoning behind using different terminology to describe the trigger dates for an applicant’s response.

Rules governing the LOS and PTLs programs

The court acknowledges the State Bar’s efforts, in response to the court’s [October 20, 2021 order](#), in determining that LOS students, as well as LLM students, should be permitted to participate in the PTLs program and in considering whether any rule amendments may be necessary to provide additional protections to the public and to the judicial system. In addition, the court appreciates the State Bar’s proposed significant expansion of the rules relating to the LOS program that, among other things, provide increased flexibility by allowing remote work and calculating the required hours on a monthly, rather than weekly, basis. However, the court is concerned that the State Bar has not adequately considered potential ethical implications that could arise for certain proposed PTLs participants, specifically for those LOS students concurrently studying under the supervision of a judge.

For example, under the proposed amendments to Rules of Court, rule 9.42, an LOS student studying under the supervision of a judge who sits on a criminal court could conceivably concurrently participate in the PTLs program as a certified law student for the local district attorney’s office and, in that capacity, appear before the judge supervising the LOS student or other judges on the same bench. Similarly, pursuant to those same amendments, an LOS student studying under the supervision of a judge who

September 20, 2023

3

sits on a civil court could conceivably concurrently participate in the PTLS program as a certified law student and represent civil litigants before the same court.

The proposed rule revisions neither preclude these dual roles, nor attempt to mitigate or prevent any actual or potential ethical concerns that might arise. For example, an LOS student studying under the supervision of a judge may have access to internal court documents related to pending proceedings being concurrently handled by the student's PTLS program attorney supervisor. Similarly, an LOS student studying under the supervision of a judge and concurrently representing either the local district attorney's office or a client through the PTLS program might be viewed as having special access or influence within the court, casting doubt on the court's impartiality and creating the appearance of impropriety. Accordingly, the State Bar should endeavor to address the ethical concerns described above and, pursuant to the court's [October 20, 2021 order](#), "consider whether any rule amendments may be necessary to provide additional protections to the public and to the judicial system."

Conclusion

The court wishes to express its appreciation to the Board, the Committee, and bar staff for conducting a comprehensive review of the admissions rules and engaging in a thoughtful analysis of the LOS and PTLS programs in response to this court's October 2021 order, and for submitting these rule amendments for consideration.

Sincerely,



JORGE E. NAVARRETE

Clerk and
Executive Officer of the Supreme Court

Enclosure

cc: Rec.

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 version of 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 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.² 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 under rule 4.46 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 to 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) The “State Bar” includes Office of Admissions (“Admissions”) directors, managers, and staff.
- (P) 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.
- (Q) 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 4.6 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~~

² Business & Professions Code § 6060(h).

~~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.

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) The State Bar will deem ~~An~~ Application for Determination of Moral Character complete when the applicant has submitted all required information, documentation, 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.~~
- (C) An Application for Extension of Determination of Moral Character submitted under rule 4.52 will be governed by the rules in this chapter governing an Application for Determination of Moral Character.

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 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 ~~whenever~~ information provided in the aApplication for Determination of Moral Character has changed or there is new information relevant to the

application. The Office of Admissions must be in receipt of the notification from the applicant ~~Failure to provide updated information within thirty 30 days of~~ after the change or addition to the information originally submitted. An applicant's may be cause for suspension of a positive moral character determination may be suspended for failure to satisfy this requirement.

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) The State Bar will notify the applicant if an Application for Determination of Moral Character has been deemed incomplete, and the applicant must cure the deficiencies within 60 days of receipt of the notification or the application will be deemed abandoned, absent a showing of good cause.
- (B) If the State Bar requests additional information or documentation from the applicant after it has deemed an Application for Determination of Moral Character complete, the applicant must respond to the request within 90 days of receipt of the request or the application will be deemed abandoned, absent a showing of good cause.
- (C) No refund of fees will be issued for an Application for Determination of Moral Character that has been deemed abandoned. The State Bar may retain an abandoned Application for Determination of Moral Character as part of the applicant's file.
- (D) An applicant may request a review by the Committee of the State Bar's decision to deem an Application for Determination of Moral Character abandoned within 30 days of receipt service of the notice notification of abandonment.
- (E) 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.

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 receipt of notificationed 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 for Determination of Moral Character to be complete, 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 for Determination of Moral Character is deemed complete, W~~within 120 days of receipting of additional the requested information from the applicant it has requested,~~ the State Bar will ~~notifies~~ the applicant that:

- (1) the applicant is determined to be of good moral character;
~~the applicant has not met the burden of establishing good moral character;~~
- (2) the application requires further consideration;
- (3) the applicant ~~is~~ will be invited to an informal conference; or
- (4) the applicant is ~~advised to enter into~~ offered an Agreement of Abeyance pursuant to rule 4.48. ~~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 moral character ~~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~~ shall establish procedures for an informal conference, ~~with the State Bar and require the State Bar to create~~ which shall include a record of it by tape recording, audio or video recording, of the conference, the opportunity for the ~~or any other means. The applicant to may present information for consideration, and permission for the applicant's counsel to attend the conference with counsel; make a written or oral statement; and present documentary evidence. in order to observe but 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 ~~b~~By the Committee of an Adverse Moral Character Determination

- (A) An applicant notified of an adverse moral character determination ~~by the State Bar of moral character~~ may request a review of the determination by the Committee. The request must be submitted to the Office of Admissions within 30 days of ~~the date of receipt of the notice~~ notification of the State Bar's determination. The applicant may submit supplemental information ~~material~~ with the request.
- (B) The Committee shall establish procedures for review of an adverse moral character determination issued by the State Bar, which shall include that a review by a panel of two Committee members will occur within 60 days of receipt of the request for review and the panel will make a recommendation to the Committee at its next regularly scheduled meeting. The Committee may adopt the recommendation of the panel or take any other action it deems appropriate. The State Bar must notify the applicant of the Committee's decision within 10 days of the decision. 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 including 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 Request for Hearing on an Adverse~~ Moral Character ~~Determination of Moral Character Issued by the Committee~~

- (A) If the Committee issues an adverse moral character determination ~~of moral character~~, the ~~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 receipt of notification of the Committee's adverse determination. ~~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 the 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 or the Committee and an applicant otherwise agree.
- (B) An Agreement of Abeyance must be in writing, ~~and~~ specify the period and conditions of abeyance, and be signed by a representative of the State Bar and the applicant. ~~A copy 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 a~~an~~Application for Determination of Moral Character.

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

Rule 4.49 New Application Following an Adverse Moral Character 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, the

Committee, or the State Bar Court, for good cause shown, at the time of its the 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 Moral Character 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~~ 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~~ If an applicant's whose positive moral character determination is ~~has been suspended,~~ the State Bar will notify the applicant that the determination has been reinstated or request additional information from the applicant within 120 days of the applicant's receipt of the suspension notification and, thereafter, process their Application for Determination of Moral Character will be is processed in accordance with ~~Rule 4.45(B).~~
- (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 receipt of the questionnaire, the positive determination will be suspended. The positive determination may be reinstated when the State Bar receives 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 or until submission of an Application for Extension of Determination of Moral Character. An applicant must have a valid positive determination to be certified to the California Supreme Court as qualified for admission to practice law in California. 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 Application for Extension of ~~Positive Moral Character~~ Determination of Moral Character

- (A) ~~An applicant who has received~~ may request an extension of a positive moral character determination ~~may submit by submitting~~ 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 the positive moral character determination, with the required information, documentation, fingerprints and the fee set forth in the Schedule of Charges and Deadlines. Failure to timely submit an Application for Extension of Determination of Moral Character will result in expiration of the positive determination. 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.

~~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) Approval of an Application for Extension of Determination of Moral Character will reinstate the positive determination and extend the validity period for 36 months from the date of approval of the extension application, or until submission of a subsequent extension application. Subsequent extension applications may be submitted consistent with the timelines and requirements described in rule 4.52(A).
- (C) If a positive moral character determination expires before an applicant submits an Application for Extension of Determination of Moral Character, 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.

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