



# The State Bar of California

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## OPEN SESSION AGENDA ITEM 705 MARCH 2024

**DATE:** March 21, 2024

**TO:** Members, Board of Trustees

**FROM:** Tara Clark, Program Director, Operations, Office of Admissions

**SUBJECT:** Proposed Amendments to the Rules of the State Bar Regarding Moral Character: Request to Circulate for Public Comment

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### EXECUTIVE SUMMARY

The Committee of Bar Examiners (CBE) voted at its January 26, 2024, meeting to recommend a series of revisions to the Rules of the State Bar related to the moral character determination process. At its May 18–19, 2023, meeting ([Item 705](#)), the Board adopted the revised rules and directed staff to request approval from the Supreme Court.<sup>1</sup> The Court denied the request.

The current proposal addresses the concerns expressed by the Court in its denial and requested that revised amendments to the Moral Character Rules, as set forth in Attachments B and C, be circulated for a 60-day public comment period.

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### BACKGROUND

Applicants for admission to practice law in California must be of good moral character. (See Bus. & Prof. Code, § 6060(b)(1); rule 4.40.) Chapter 4 of Title 4, Division 1 of Rules of the State Bar set forth the rules and procedures by which the State Bar determines an applicant's moral character as part of the admissions process. Rule 4.40(B) defines good moral character as including "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." The rules require all applicants for admission to the State Bar, as well as California's special admissions programs, to submit an Application for Determination of Moral Character to allow the State Bar to begin the process of assessing whether the applicant possesses the requisite moral character to practice law in California. The application includes

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<sup>1</sup> The related resolution adopted on May 19, 2023, was revised at the Board's June 12, 2023, meeting to include that staff submit the proposed rule changes to the Court for review and approval.

information about residence history, employment history, civil lawsuits, criminal matters, honor code violations, bankruptcies, driving records, military service, educational history, certifications and licenses, applications to other jurisdictions, complaints and professional discipline related to a business, trade, or professional license, and similar matters.

The Board approved a revised set of Moral Character Rules in May 2023; a request for approval was submitted to the Supreme Court accordingly. On September 20, 2023, the Court denied the request (Attachment A), requesting more details regarding the proposed changes, raising issues related to the proposed revisions to rule 4.52 regarding the process for seeking an extension of a positive moral character determination, and directing that the rules be standardized to incorporate the term “receipt” as it is defined in rule 4.3(M) and (N).

In the months that followed, the CBE and staff worked to make further revisions to the Moral Character Rules consistent with the Court’s order. At its January 26, 2024, meeting ([Item V.A.](#)), the CBE approved the proposal outlined below and recommends that the Board circulate the revised proposed amendments set forth in Attachments B and C for a 60-day public comment period.<sup>2</sup>

## **DISCUSSION**

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, transition to gender-neutral pronouns, and address the Court’s feedback. The most substantive proposed revisions are discussed below.

### **Rule 4.41 Regarding Out-Of-State Attorneys**

The previously circulated changes to rule 4.41 would have deleted the existing rule’s prohibition on out-of-state attorneys who are disbarred or currently not in good standing for disciplinary reasons from submitting an Application for Determination of Moral Character, and instead proposed to add a new subsection that that would permit them to submit an application while creating a rebuttable presumption that the applicant does not possess good moral character. Upon further review, the CBE recommends eliminating any reference to out-of-state attorneys who are disbarred or currently not in good standing for disciplinary reasons. The CBE also suggests removing 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 afforded by the current rules to jurisdictions that impose discipline on

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<sup>2</sup> Also at its May 19, 2023, meeting, the Board voted to circulate for public comment proposed revisions to rule 4.41, which prohibits out of state attorneys who are disbarred or otherwise not in good standing for disciplinary reasons from submitting a moral character application ([Item 702](#)). The 4.41 amendments were not included in the package of rules that was rejected by the Court, but after receiving the September 2023 order, the CBE opted to incorporate those proposed amendments into the package currently before the Board rather than to seek adoption of that rule in isolation.

attorney applicants without allowing the State Bar to consider issues related to the discipline that may be relevant to a moral character determination, and (3) ensure the appropriate level of public protection.

#### **Rule 4.52 Regarding the Extension of a Positive Determination**

Rule 4.52(A) 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). The Court expressed concern regarding the proposed deletion of the validity periods set forth above. Previously, staff and the CBE believed rule 4.51, which states that a positive moral character determination is valid for 36 months, was sufficient to inform applicants about the length of a positive determination, including a positive determination on an extension application. However, staff and the CBE have proposed further revisions to rule 4.52 to address the Court's feedback while still reflecting current 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. Subsections (B) and (C) are proposed to rule 4.52 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.

#### **Definitions and Clarifying Amendments**

The Court directed the State Bar to endeavor to standardize the rules to use the defined term "receipt." Staff and the CBE took this direction and proposed further revisions to the rules to ensure consistency across the Admissions rules.

- Amending rule 4.3 to include a definition of the term "State Bar."
- Adding a new subsection (C) to rule 4.41 to ensure that 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.
- Amending rule 4.44(A), 4.46(B), and rule 4.46.1(B) to conform to the existing procedures.
- Amending rule 4.50(B) to clarify the timeline and actions that the State Bar must take after suspending an applicant's positive moral character determination.
- Amending rule 4.51 to conform to current practice and provide clarity to applicants by adding that a positive moral character determination is valid until submission of an Application for Extension of Determination of Moral Character.
- Amending rules 4.41(B), 4.43(A)–(C), and 4.52(A) to conform terminology across other Admissions rules.

- Amending rules 4.42–4.45, 4.46.1–4.47, and 4.50 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**

Staff anticipates that the streamlined rules proposals will positively impact resources by reducing the number of applicant inquiries, and aid in the processing of applications by creating consistency within the rules. Staff further anticipates that the amendment to rule 4.41(A) regarding out-of-state attorneys will likely result in only a small increase in the number of moral character applications submitted, that is absorbable with current resources.

## **AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA**

Title 4, Division 1, Chapter 1, rules 4.3, 4.6; Chapter 4, rules 4.40–4.52

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

None – core business operations

## **RECOMMENDATIONS**

**Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees approves circulating for a 60-day public comment period the changes to the rules regarding moral character as set forth in Attachment B.

## **ATTACHMENTS LIST**

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

SUPREME COURT  
FILED

SEP 20 2023

Jorge Navarrete Clerk

S281003

ADMINISTRATIVE ORDER 2023-09-20-02

Deputy

# IN THE SUPREME COURT OF CALIFORNIA

EN BANC

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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)

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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

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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**

**LEGEND:** The original proposed changes to the current rules are shown by underline for added language and ~~strikeout~~ for deleted language. Modified changes to the proposed rules are shown by double underline for added language and ~~double-strikeout~~ for deleted language.

**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~~ 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.<sup>2</sup> It includes questions on contracts, torts, and criminal law.
- (K) An “informal conference” is ~~defined in Rule 4.45 as 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.

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<sup>2</sup> Business & Professions Code § 6060(h).

## 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.*

### 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 ~~must be accompanied by fingerprints~~ 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. 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. There shall be a rebuttable presumption that an attorney is not of good moral character if the attorney is currently suspended for disciplinary reasons, is disbarred, has resigned with disciplinary charges pending, or is otherwise not in good standing for disciplinary reasons in any jurisdiction.~~

- (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 Uupdate 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 ~~a~~Application 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 or additional 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. ~~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) 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. ~~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) 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. 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 receipt of notification~~ that the State Bar is unable to make a determination without further inquiry and analysis. An applicant who withdraws an application more than 30 days after submission 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 ~~R~~egarding ~~S~~tatus 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 and filed~~, the State Bar will ~~notify~~ is 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 and filed, Wwithin 120 days of receipting of additional the requested information from the applicant 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;~~
  - (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 ~~C~~onference ~~R~~egarding ~~M~~moral ~~C~~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~~ must establish procedures for an informal conference, ~~with the State Bar and require the State Bar to create~~ which shall must include creating a record of it by tape audio 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 and will have an opportunity to present information for consideration. 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~~6~~.1 Request for Review ~~b~~By the Committee ~~of~~ Following 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 must establish procedures for review of an adverse moral character determination issued by the State Bar, which must 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 a 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 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 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 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 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, ~~or 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~~ 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~~ 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 is processed in accordance with ~~R~~ule 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 the date on which it was sent 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~~ ~~P~~period of a ~~P~~positive ~~M~~moral ~~C~~character ~~D~~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 fingerprints information, documentation, 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 timely 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) 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). 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.~~

- (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.*

## ATTACHMENT C

### 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 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.<sup>2</sup> It includes questions on contracts, torts, and criminal law.
- (K) An “informal conference” is 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 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) 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]**

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<sup>2</sup> Business & Professions Code § 6060(h).

*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) 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.
- (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 an applicant has taken the attorney’s oath, the applicant has a continuing duty to notify the Office of Admissions when information provided in the Application 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 within 30 days of the change or addition to the information originally submitted. An applicant’s 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) 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 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 of notification of abandonment.
- (E) 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.

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

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

An applicant may withdraw an Application for Determination of Moral Character any time before receipt of notification that the State Bar is unable to make a determination without further inquiry and analysis. An applicant who withdraws an application more than 30 days after submission 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 for Determination of Moral Character to be complete, 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 for Determination of Moral Character is deemed complete, within 120 days of receipt of the requested information from the applicant, 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 pursuant to rule 4.48.

*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, the State Bar will invite the applicant to an informal conference. 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 must establish procedures for an informal conference, which must include audio or video recording of the conference, the opportunity for the applicant to present information for consideration, and permission for the applicant's counsel to attend the conference in order to observe but 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 Following an Adverse Moral Character Determination**

- (A) An applicant notified of an adverse moral character determination by the State Bar may request review of the determination by the Committee. The request must be submitted to the Office of Admissions within 30 days of receipt of notification of the State Bar's determination. The applicant may submit supplemental information with the request.
- (B) The Committee must establish procedures for review of an adverse moral character determination issued by the State Bar, which must 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.

*Rule 4.47.1 adopted effective September 1, 2019.*

#### **Rule 4.47 Request for Hearing on an Adverse Moral Character Determination Issued by the**

## **Committee**

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

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, the Committee, or the State Bar Court, for good cause shown, at the time of 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**

- (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) If an applicant's positive moral character determination is 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 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 moral character determination is valid for 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.

*Rule 4.51 adopted effective September 1, 2008.*

#### **Rule 4.52 Application for Extension of Determination of Moral Character**

- (A) An applicant may request an extension of a positive moral character determination by submitting an Application for Extension of Determination of Moral Character in the last 6 months of the 36-month validity period of the positive moral character determination, with required information, documentation, 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.

- (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.*