

**FACTORS THAT MAY BE TAKEN INTO CONSIDERATION  
WHEN EVALUATING THE REHABILITATION OF AN  
APPLICANT SEEKING A MORAL CHARACTER DETERMINATION**

The Committee of Bar Examiners of the State Bar of California (Committee), when considering whether an applicant has the good moral character required for admission to practice law in California required by Section 6060 of the Business and Professions Code and Title 4, Division 1, Chapter 4 of the *Rules of the State Bar of California (Admissions Rules)*, evaluates whether an applicant possesses the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the laws of the state and the nation, and respect for the rights of others and for the judicial process. Involvement in activity that constitutes an act of misconduct or an act of moral turpitude does not necessarily preclude an applicant from admission to practice law in California; however, an applicant who has committed such acts must demonstrate rehabilitation prior to receiving a positive moral character determination.

An act of misconduct may include, but is not limited to, behavior that results in a criminal conviction, behavior that results in a sustained accusation of fraud or a sustained allegation of unauthorized practice of law, the violation of a school's honor code that involves moral turpitude or results in expulsion, professional discipline and license revocation or disbarment. Material omissions from the moral character application, misstatements in the moral character application, failure to provide requested information and misrepresentations during informal conferences conducted by the Committee are also considered to be significant misconduct.

It is the policy of the State Bar of California that persons who have been convicted of violent felonies, felonies involving moral turpitude and crimes involving a breach of fiduciary duty are presumed not to be of good moral character in the absence of a pardon or a showing of overwhelming reform and rehabilitation. The Committee ~~shall~~ will exercise its discretion to determine whether applicants convicted of violent felonies, felonies involving moral turpitude and crimes involving a breach of fiduciary duty have produced overwhelming proof of reform and rehabilitation, including at a minimum, a lengthy period of not only unblemished, but exemplary conduct.

Truly exemplary conduct typically includes service to the community. Rehabilitation often includes making appropriate amends to any person or entity harmed by the misconduct of the applicant. It should be noted that the testimony of character witnesses alone will not adequately show rehabilitation nor will the applicant's statements of remorse. It should also be noted that behavior such as holding a steady job, abiding by the law, getting married and starting a family constitutes ordinary conduct rather than the exemplary behavior expected of a person who has committed misconduct and is trying to demonstrate rehabilitation. Likewise, *pro bono* work is not truly exemplary for attorneys, but rather is expected of them.

The more serious the misconduct, the stronger an applicant's showing of rehabilitation must be. When applicants have committed serious misconduct, they must convince the

## REHABILITATION FACTORS

Page 2

Committee that they are no longer the same person who behaved poorly. In such cases, positive inferences about their character are harder to draw and negative inferences are stronger and more reasonable.

The factors enumerated below are guidelines that may be taken into consideration when evaluating whether an applicant has demonstrated rehabilitation. Not all factors listed below will be applicable to every single case nor will each factor necessarily be given equal weight in evaluating the rehabilitation of an applicant. The following factors, ~~although not inclusive among others~~, assist the Committee in determining whether an applicant has demonstrated rehabilitation ~~for~~ from an act of misconduct or moral turpitude:

- 1) The nature of the ~~act of~~ misconduct, including whether it involved moral turpitude, whether there were aggravating or mitigating circumstances, and whether the activity was an isolated event or part of a pattern.
- 2) The age and education of the applicant at the time of the act of misconduct and the age and education of the applicant at the present time.
- 3) The length of time that has passed between the act of misconduct and the present, absent any involvement in any further acts of ~~moral turpitude~~ misconduct. The amount of time and the extent of rehabilitation will be dependent upon the nature and seriousness of the act of misconduct under consideration.
- 4) ~~Restitution to any person who has suffered monetary losses through related acts or omissions of the applicant~~ Whether applicant has made amends to any person or entity who suffered harm as a result of applicant's misconduct, including whether restitution has been made to any person or entity who suffered monetary losses as a result of applicant's misconduct.
- 5) The expungement of a conviction or receipt of a pardon.
- 6) Successful completion or early discharge from probation or parole.
- 7) Reinstatement of a professional license, reinstatement into a profession or satisfaction of the terms of discipline, where an applicant has been disciplined in another profession.
- 8) Abstinence from the use of controlled substances or alcohol for not less than two years if the ~~significant act of~~ misconduct was attributable in part to the use of a controlled substance or alcohol. Abstinence may be demonstrated by, but is not necessarily limited to, enrolling in and complying with a self-help or professional treatment program.

## REHABILITATION FACTORS

Page 3

- 9) Evidence of remission for not less than two years if the specific act of misconduct was attributable in part to a medically recognized mental disease, disorder or illness. Evidence of remission may include, but is not limited to, seeking professional assistance and complying with the treatment program prescribed by the professional and submission of letters from the psychiatrist/psychologist verifying that the medically recognized mental disease, disorder or illness is in remission.
- 10) Payment of a fine imposed in connection with any criminal conviction.
- 11) Correction of behavior responsible in some degree for the act of ~~bad behavior~~ misconduct.
- 12) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement.
- 13) Significant ~~and conscientious~~ involvement in and service to community, church or privately sponsored programs designed to provide social benefits or to ameliorate social problems.
- 14) Change in attitude from that which existed at the time of the act of misconduct in question as evidenced by any or all of the following:
  - (a) Statements of the applicant.
  - (b) Statements from family members, friends or other persons familiar with the applicant's previous conduct and with subsequent attitudes and behavioral patterns.
  - (c) Statements from probation or parole officers or law enforcement officials as to the applicant's social adjustments.
  - (d) Statements from persons competent to testify with regard to neuropsychiatric or emotional disturbances.