

## TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

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## Division 1. Admission to Practice Law in California [Reserved: 4.1 – 4.99]

### CHAPTER 1. GENERAL PROVISIONS

#### Rule 4.1 Authority

The California Supreme Court exercises inherent jurisdiction over the practice of law in California. The Committee of Bar Examiners (“the Committee”) is authorized by law to administer the requirements for admission to practice law; to examine all applicants for admission; and to certify to the Supreme Court for admission those applicants who fulfill the requirements.<sup>1</sup>

#### Rule 4.2 What these rules are

These rules apply to persons seeking to practice law in California. Nothing in these rules may be construed as affecting the power of the California Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

#### 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.<sup>2</sup>
- (B) An “attorney applicant” is an applicant who is or has been admitted as an attorney to the practice of law in any jurisdiction.
- (C) The “Attorneys’ Examination” is the California Bar Examination for which attorney applicants may apply, provided they have been admitted to the active practice of law in a United States jurisdiction at least four years immediately prior to the first day of administration of the examination and have been in good standing during that period. ~~an attorney applicant, who has been admitted to the active practice of law in good standing to the bar in any United States jurisdiction for a minimum of four years immediately prior to the first day of administration of the examination, may apply.~~ The Attorneys’ Examination includes written 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.<sup>3</sup>

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<sup>1</sup> Business & Professions Code § 6046.

<sup>2</sup> See Rule 4.105(B).

- (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) A “general applicant” is an applicant who has not been admitted as an attorney to the practice of law in any jurisdiction.
- (H) 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.
- (I) The “First-Year Law Students’ Examination” is the examination administered by the Committee that an applicant must pass, unless otherwise exempt.<sup>4</sup> It includes questions on contracts, torts, and criminal law.
- (J) An “informal conference” is defined in Rule 4.45.
- (K) The “Office of Admissions” (“Admissions”) is the State Bar office authorized by the Committee to administer examinations and otherwise act on its behalf.
- (L) “Receipt” of a document the Committee sends an applicant is
  - (1) calculated from the date of mailing and is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States; or
  - (2) when the Committee delivers a document physically by personal service or otherwise.
- (M) “Receipt” of a document sent to the Committee is when it is physically received at the Office of Admissions.

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<sup>3</sup> Rule 4.105(C).

<sup>4</sup> Business & Professions Code § 6060(h). See also Rule 4.55.

- (N) “Senior Executive” means “Senior Executive, Admissions” or that person’s designee.
- (O) An “unaccredited law school” is a correspondence, distance-learning, or fixed-facility law school operating in California that the Committee registers but does not accredit.<sup>5</sup>

#### Rule 4.4 Confidentiality

Applicant records are confidential unless required to be disclosed by law,<sup>6</sup> required by the State Bar’s Executive Director, Chief Trial Counsel, or General Counsel to fulfill their responsibilities for regulation of the practice of law; or authorized by the applicant in writing for release to others.

#### Rule 4.5 Submissions

- (A) A document filed with the Committee pursuant to these rules must be completed according to instructions; verified or made under penalty of perjury;<sup>7</sup> and submitted with any required fee.
- (B) A document, which must be complete as defined by the instructions for filing, is deemed filed upon receipt.
- (C) Fingerprints provided by applicants are used to establish identity and disclose criminal records in California or elsewhere. Fingerprint records are confidential and for official use of the Committee and the State Bar. The records of those who do not receive a positive determination of moral character are destroyed within a year of the final determination not to admit.
- (D) Information on an examination application that is not required but submitted voluntarily, including ethnic survey and identification information furnished with applications to take the California Bar Examination, ~~are~~ is separated from the applications at initial processing and may not be associated with applicants, their files, or their examination answers during grading unless there is reasonable doubt about the identity of a person taking an examination and the Committee requires the information to verify identity.

#### Rule 4.6 Investigations and hearings

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<sup>5</sup> See Rules 4.105(N) and 4.204(K).

<sup>6</sup> See Evidence Code § 1040, Business & Professions Code §§ 6044.5, 6060.2, 6086, and 6090.6.

<sup>7</sup> Code of Civil Procedure § 2015.5.

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 4.7 Statistics

The Committee may publish statistics for each examination in accordance with its policies.

#### Rule 4.8 Extensions of time

The time limits for Committee actions specified in these rules are norms for processing. The time limits are not jurisdictional and the Committee may extend them for good cause.

#### Rule 4.9 Review by Supreme Court

An applicant refused certification to the Supreme Court of California for admission to practice law in California may have the action of the Committee reviewed by the Supreme Court of California in accordance with its procedures.

### CHAPTER 2. OVERVIEW OF ADMISSION REQUIREMENTS

#### Rule 4.15 Certification to California Supreme Court

To be eligible for certification to the California Supreme Court for admission to the practice of law, an applicant for admission must:

- (A) be at least eighteen years of age;
- (B) file an Application for Admission with the Committee;
- (C) meet the requirements of these rules regarding education or admission as an attorney in another jurisdiction, determination of moral character, and examinations;
- (D) be in compliance with California court-ordered child or family support obligations pursuant to Family Code § 17520;
- (E) until admitted to the practice of law, notify the Committee within thirty days of any change in information provided on an application; and
- (F) otherwise meet statutory criteria for certification to the Supreme Court.<sup>8</sup>

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<sup>8</sup> Business & Professions Code § 6060.

#### Rule 4.16 Application for Admission

- (A) An Application for Admission consists of an Application for Registration, an Application for Determination of Moral Character, and an application for any required examination. Each application must be submitted with the required documentation and the fees set forth in the Schedule of Charges and Deadlines. The Committee determines when an application is complete.
- (B) The Application for Registration must be filed first, before any other application is transmitted to the Committee. The applicant is required by law either to provide the Committee with a Social Security Number<sup>9</sup> or to request an exemption because of ineligibility for a Social Security Number.<sup>10</sup> Registration is deemed abandoned if all required documentation and fees have not been received within sixty days of filing. No refund is issued for an abandoned registration.
- (C) After filing the Application for Registration, an applicant for admission may file an Application for Determination of Moral Character, an application for any examination as required by these rules and any other document or petition permitted by these rules.

#### Rule 4.17 Admission cCertification and time limit

~~An applicant certified to the California Supreme Court must take the attorney's oath and be admitted to the practice of law within five years of the last day of the California Bar Examination that qualified the applicant for admission. The Committee may extend this time for good cause but not for negligence or a negative moral character determination.~~

- (A) No later than five years from the last day of passing the California Bar Examination,
- (1) an applicant must meet all requirements for admission for certification by the Committee to the California Supreme Court; and
- (2) upon receipt of an order from the Court, take the attorney's oath and meet State Bar registration requirements to be eligible to practice law in California.
- (B) The Committee may extend this five-year limit for good cause but not for negligence or a negative moral character determination

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<sup>9</sup> Business & Professions Code § 30, Family Code § 17520.

<sup>10</sup> Business & Professions Code § 6060.6.

### CHAPTER 3. REQUIRED EDUCATION

#### Rule 4.25 General education

Before beginning the study of law, a general applicant must have completed at least two years of college work or demonstrated equivalent intellectual achievement, which must be certified by the law school the applicant is attending upon request by the Committee.

- (A) "Two years of college work" means a minimum of sixty semester or ninety quarter units of college credit
  - (1) equivalent to at least half that required for a bachelor's degree from a college or university that has degree-granting authority from the state in which it is located; and
  - (2) completed with a grade average adequate for graduation.
- (B) "Demonstrated equivalent intellectual achievement" means achieving acceptable scores on Committee-specified examinations prior to beginning the study of law.

#### Rule 4.26 Legal education

General applicants for the California Bar Examination must

- (A) be graduates of law schools approved by the American Bar Association or accredited by the Committee; or
- (B) demonstrate that in accordance with these rules they have
  - (1) studied law diligently and in good faith for at least four years in a law school registered with the Committee; in a law office; in a judge's chambers;<sup>11</sup> or by some combination of these methods; or
  - (2) met the requirements of these rules for legal education in a foreign state or country;<sup>12</sup> and
- (C) have passed or established exemption from the First-Year Law Students' Examination.

#### Rule 4.27 Study in a fixed-facility unaccredited law school

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<sup>11</sup> Rule 4.29.

<sup>12</sup> Rule 4.30.

(A) To receive credit for one year of study in a fixed-facility unaccredited law school registered with the Committee, a student must receive passing grades in courses requiring classroom attendance by its students for a minimum of 270 hours a year.

Rule 4.28 Study by correspondence or distance learning

- (A) To receive credit for one year of study by correspondence or distance learning in an unaccredited law school registered with the Committee, a student must receive passing grades in courses requiring at least 864 hours of preparation and study over no fewer than forty-eight and no more than fifty-two consecutive weeks, evidenced by a transcript that indicates the date each course began and ended.
- (B) To receive credit for one-half year of ~~such study~~ by correspondence or distance learning in an unaccredited law school registered with the Committee, a student must receive passing grades in courses requiring at least 432 hours of preparation and study over no fewer than twenty-four and no more than twenty-six consecutive weeks, evidenced by a transcript that indicates the date each course began and ended.

Rule 4.29 Study in a law office or judge's chambers

- (A) A person who intends to comply with the legal education requirements of these rules by study in a law office or judge's chambers must
- (1) submit the required form with the fee set forth in the Schedule of Charges and Deadlines within thirty days of beginning study; and
  - (2) have studied law in a law office or judge's chambers during regular business hours for at least eighteen hours each week for a minimum of forty-eight weeks to receive credit for one year of study or for at least eighteen hours a week for a minimum of twenty-four weeks to receive credit for one-half year of study.
- (B) The attorney or judge with whom the applicant is studying must
- (1) be admitted to the active practice of law in California and be in good standing for a minimum of five years;
  - (2) provide the Committee within thirty days of the applicant's beginning study an outline of a proposed course of instruction that he or she will personally supervise;
  - (3) personally supervise the applicant at least five hours a week;

- (4) examine the applicant at least once a month on study completed the previous month;
- (5) report to the Committee every six months the number of hours the applicant studied each week during business hours in the law office or chambers; the number of hours devoted to supervision; and specific information on the books and other materials studied, such as chapter names, page numbers, and the like; and
- (6) not personally supervise more than two applicants ~~simultaneously~~simultaneously.

#### Rule 4.30 Legal education in a foreign state or country

Persons who have studied law in a law school in a foreign state or country may qualify as general applicants provided that they

- (A) have a first degree in law, acceptable to the Committee, from a law school in the foreign state or country and have completed a year of legal education at an American Bar Association Approved Law School or a California accredited law school in areas of law prescribed by the Committee; or
- (B) have a legal education from a law school ~~completed legal education in a law school~~ located in a foreign state or country without a first degree in law, acceptable to the Committee, ~~receiving the first degree in law (for which up to one year of credit may be awarded)~~ and
  - (1) have met the general education requirements ~~of these rules prior to commencing the study of law in a jurisdiction of the United States;~~<sup>13</sup> and
  - (2) have studied law as permitted by these rules in a law school, in a law office or judge's chambers, or by any combination of these methods (up to one year of legal education credit may be awarded for foreign law study completed); and
  - (3) have passed ~~or established exemption from the~~ First-Year Law Students' Examination in accordance with these rules and Committee's policies.

#### Rule 4.31 Repeated courses

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<sup>13</sup> Rule 4.25.

The Committee does not recognize credit for repetition of a course or substantially the same course.

#### Rule 4.32 Evaluation of study completed or contemplated

An applicant may request that the Committee determine whether general or legal education contemplated or completed by the applicant meets the eligibility requirements of these rules for beginning the study of law, the First-Year Law Students' Examination or the California Bar Examination. The request must be submitted on the required form with certified transcripts and the fee set forth in the Schedule of Charges and Deadlines. A written response indicating whether or not the education is sufficient will be issued within sixty days of receipt of the request.

### CHAPTER 4. MORAL CHARACTER DETERMINATION

#### Rule 4.40 Moral Character Determination

- (A) An applicant must be of good moral character as determined by the Committee. The applicant has the burden of establishing that he or she is 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 4.41 Application for Determination of Moral Character

- (A) An applicant must submit an Application for Determination of Moral Character with required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. An attorney who is suspended, disbarred, or otherwise not in good standing in any jurisdiction may not submit an application.
- (C) An Application for Determination of Moral Character may be submitted any time after filing an Application for Registration but is deemed filed only when the application is complete.

#### Rule 4.42 Duty to update Moral Character Application

Applicants have a continuing duty to update ~~their~~ an application for moral character determination applications and must promptly notify the Office of Admissions whenever there is a change to information previously furnished to the Committee or any new information relevant to the application. Failure to provide

updated information may be cause for suspension of a positive moral character determination.

#### Rule 4.43 Abandonment of Application for Determination of Moral Character

- (A) An Application for 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 Committee within ninety days of the request.
- (B) A new Application for Moral Character must be submitted with the required fee if an application has been abandoned.

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

- (A) An applicant may withdraw an Application for Determination of Moral Character any time before being notified that the Committee is unable to make a determination without further inquiry and analysis. Following such a notice, withdrawal requires the Committee's consent.
- (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 Committee at its San Francisco office.

#### Rule 4.45 Notice regarding status of moral character application

- (A) Within 180 days of receiving a completed Moral Character Application, the Committee notifies an applicant that its determination of moral character is positive or that it requires further consideration or information from the applicant, a government agency, or another source. A positive determination is valid for thirty-six months.
- (B) While a Moral Character Application remains pending, a status report is issued to the applicant at least every sixty days.
- (C) Within sixty days of receiving additional information it has requested, the Committee notifies the applicant that
  - (1) the applicant is determined to be of good moral character;

- (2) the applicant has not met the burden of establishing good moral character;
- (3) the application requires further consideration;
- (4) the applicant is invited to an informal conference with the Committee;<sup>14</sup>  
or
- (5) the applicant is advised to enter into an Agreement of Abeyance with the Committee.<sup>15</sup>

#### Rule 4.46 Informal conference regarding moral character

- (A) The Committee may invite an applicant for a determination of moral character to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and declining it entails no negative inference.
- (B) An applicant notified of an adverse determination of moral character may request an informal conference with the Committee, provided the applicant has not previously declined the Committee's invitation to an informal conference. The request must be in writing and submitted to the Committee at its San Francisco office within ninety days of the date of the notice. Within sixty days of receiving a timely request, the Committee must schedule the informal conference, and within thirty days of the conference notify the applicant of its final determination. An adverse determination may be appealed in accordance with these rules.
- (C) The Committee may establish procedures for an informal conference and create a record of it by tape recording, video recording, or any other means. The applicant may attend the conference with counsel; make a written or oral statement; and present documentary evidence. Counsel is limited to observation and may not participate.

#### Rule 4.47 Appeal of adverse determination of moral character

- (A) An applicant notified of an adverse determination of moral character may file a request<sup>16</sup> 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.<sup>17</sup> The request must be filed with the fee set forth in the

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<sup>14</sup> Rule 4.45.

<sup>15</sup> Rule 4.46.

<sup>16</sup> *Current rule calls this an "application for hearing," not a "request."*

<sup>17</sup> Rules of Procedure of the State Bar of California, Rules 680-687.

Schedule of Charges and Deadlines within sixty days of receipt of the notice of adverse determination.

- (B) A copy of the request for hearing must be served on the Committee and the Office of Chief Trial Counsel at the San Francisco office of the State Bar. Upon receipt of service, the Committee must promptly transmit all files related to the application to the Office of Chief Trial Counsel.

#### Rule 4.48 Agreement of Abeyance

- (A) The Committee and an applicant may suspend processing of an Application for Determination of Moral Character by 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; or
  - (4) as the Committee and an applicant otherwise agree.
- (B) An Agreement of Abeyance must be in writing and specify the period and conditions of abeyance. A copy must be provided to the applicant.

#### Rule 4.49 New application following adverse determination of moral character

The Committee may permit an applicant who has received an adverse moral character determination to file another Moral Character Application two years from the date of the Committee's final determination or at some other time set by the Committee, for good cause shown, at the time of its adverse determination.

#### Rule 4.50 Suspension of positive determination of moral character

- (A) Before certifying an applicant for admission to the practice of law, the Committee may notify an applicant that it has suspended a positive 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) Within sixty days of issuing a notice suspending a positive determination of moral character, the Committee must issue a notice reinstating or revoking the positive determination after investigating the information that prompted

the suspension. Revocation entitles an applicant to an informal conference with the Committee or to appeal the revocation to the State Bar Court.<sup>18</sup>

#### Rule 4.51 Validity period of positive moral character determination

A positive determination of moral character is valid for thirty-six months. An applicant with a positive determination who has not been certified to practice law within this validity period must submit an Application for Extension of Determination of Moral Character.

#### Rule 4.52 Extension of positive moral character determination

An applicant who has received a positive moral character determination may submit an Application for Extension of Determination of Moral Character. The application must be filed in the last six months of the initial thirty-six month validity period with the required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. If the Committee 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 Committee 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.

### CHAPTER 5. EXAMINATIONS

#### Rule 4.55 First-Year Law Students' Examination requirement

A general applicant intending to seek admission to practice law in California must take the First-Year Law Students' Examination unless the applicant

- (A) has satisfactorily completed
- (1) at least two years of college work as defined by these rules; and
  - (2) the first-year course of instruction ~~at a law school that~~
    - (a) at a law school that was approved by the American Bar Association or accredited by the Committee when the study was begun or completed; and
    - (b) the law school has advanced the person, whether or not on probation, to the second-year of instruction; or

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<sup>18</sup> Rule 4.45.

- (B) is exempt by reason of study in a foreign law school as provided by these rules.<sup>19</sup>

#### Rule 4.56 First-Year Law Students' Examination

The First-Year Law Students' Examination is given each year in June and October at test centers in California designated by the Committee. The Committee determines the examination's scope, topics, grading process, and passing score.

#### Rule 4.57 Exempt applicants taking First-Year Law Students' Examination

An applicant who is exempt from the First-Year Law Students' Examination may apply for and take the examination. Failing the examination does not affect the applicant's status under these rules.

#### Rule 4.58 Application for the First-Year Law Students' Examination

- (A) An application to take the First-Year Law Students' Examination in June must be submitted by April 1. An application to take the examination in October must be submitted by August 1. Applications received after these deadlines and by May 15 or September 15 are subject to a late fee. Applications are not accepted after those dates. Application fees and late fees are set forth in the Schedule of Charges and Deadlines.
- (B) Different deadlines for initial filing and late fees apply to applicants who fail the First-Year Law Students' Examination and intend to take the next scheduled examination. These deadlines are set forth in the notice of examination results and are more than ten days from the date those results are released.
- (C) Applications that are unsigned or incomplete for any reason as of the final examination application filing deadline are deemed abandoned and ineligible for a refund of fees.
- (D) Applications for which eligibility documents have not been received by the date set forth in the Schedule of Charges and Deadlines are abandoned and ineligible for a refund of fees.

#### Rule 4.59 Multistate Professional Responsibility Examination

Every applicant must take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners, and receive a passing score as determined by the Committee. The examination

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<sup>19</sup> Rule 4.29.

may be taken following completion of the first year of law study or later. The Committee must receive official notice of an MPRE passing score before an applicant is certified to the California Supreme Court.

#### Rule 4.60 California Bar Examination

- (A) The California Bar Examination is given each year in February and July at test centers in California designated by the Committee. The Committee determines the examination's scope, topics, grading process, and passing score.
- (B) The Committee provides the California Supreme Court a report on each administration of the examination as soon as practical.

#### Rule 4.61 Applications for the California Bar Examination

- (A) Applications for the California Bar Examination are available March 1 for the July examination and October 1 for the February examination. An application must be submitted no later than April 1 for the July examination or November 1 for the February examination. Applications received after these deadlines and by June 15 or January 15 are subject to late fees. Applications are not accepted after those dates. Application fees and late fees are set forth in the Schedule of Charges and Deadlines.
- (B) Different deadlines for initial filing and late fees apply to applicants who fail the California Bar Examination and intend to take the next scheduled examination. These deadlines are set forth in the notice of examination results and are more than ten days from the date those results are released.
- (C) Applications are deemed abandoned and ineligible for a refund of fees if
  - (1) they are incomplete or unsigned by the final examination application filing deadline;
  - (2) the applicant has not provided additional information requested by the final eligibility deadline; or
  - (3) eligibility cannot be determined by the final eligibility deadline.

#### Rule 4.62 Access to examination answers and scores

- (A) Within sixty days of the release of examination results, examination answers to the written portions of the examination are returned to applicants for admission who have failed the California Bar Examination or who have passed or failed the First-Year Law Students' Examination. This provision

does not apply to the Multistate Professional Responsibility Examination or the multiple-choice portion of the California Bar Examination.

- (B) Applicants who pass the California Bar Examination are not entitled to receive their examination answers or to see their scores.

## CHAPTER 6. CONDUCT AT EXAMINATIONS

### Rule 4.70 Conduct required at examinations

Applicants are expected to conduct themselves professionally at all times at an examination test center. Conduct that violates the security or administration of an examination may be reported to the Committee or, in extreme cases, require dismissal from the examination test center. Unacceptable conduct may include having unauthorized items, writing or typing after time has been called, looking at another applicant's answers, talking when silence is required, or abusive behavior.

### Rule 4.71 Reports of conduct violations

A subcommittee designated by the Committee considers reports of unacceptable conduct at an examination at the first Committee meeting following the examination and within forty-five days of the meeting determines whether a violation has occurred. If it finds that there has been a violation, it must notify the applicant of its proposed sanction within thirty days. Sanctions may include referral of the matter for moral character assessment and/or assigning a score of zero for a question, a session, or an entire examination. An examination score and determination of moral character may be held in abeyance pending resolution of the matter.

### Rule 4.72 Request for hearing on conduct violation

- (A) An applicant notified of a conduct violation may file a written request for a hearing on the subcommittee's findings. The request must be filed within twenty days of receipt of the notice or the proposed sanction will take effect. For good cause shown by clear and convincing evidence the Committee may extend the filing deadline.
- (B) To hear the request, the Committee chair must appoint a panel of three Committee members, one of whom is to serve as Chair. Panel members must not have served on the subcommittee that reviewed the report of conduct violation.

- (C) Once an applicant has filed a request for a hearing on a conduct violation, the Committee must schedule a hearing within ninety days, or at a later time for good cause, and notify the applicant of the time and place of the hearing.

#### Rule 4.73 Procedure for hearing on conduct violation

- (A) The Committee may establish procedures for conducting hearings on conduct violations, which may include, but are not limited to, guidelines for creating records of the proceedings, limiting the duration of testimony, and setting time limits for continuances.
- (B) The applicant may be represented by counsel during the hearing. An attorney from the State Bar Office of General Counsel represents the Committee. A different attorney from this office represents the panel.
- (C) The Committee has the burden of establishing by clear and convincing evidence that a violation occurred.
- (D) The panel must render Findings and Recommendations no later than thirty days after the hearing, which must be served on the applicant and counsel present at the hearing. The panel may recommend the sanction originally proposed or any other action it deems appropriate. The applicant may request review of the panel's determination within ten days of service.<sup>20</sup>

#### Rule 4.74 Review of Findings and Recommendations

- (A) ~~If the~~ an applicant served with a panel's Findings and Recommendations requests review of the Findings and Recommendations within ten days of service requests review of the panel's Findings and Recommendations, the Committee must consider the applicant's request, any record of the hearing, the Findings and Recommendations, and any supplemental material the applicant provides in accordance with Committee requirements during its next regularly scheduled meeting. Neither the applicant nor applicant's counsel is permitted to attend.
- (B) The Committee may adopt the Findings and Recommendations of the hearing panel or take any other action it deems appropriate.
- (C) The Committee will notify the applicant within ten days of its determination.

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<sup>20</sup> See Rule XII § 3(d): "In response to the Findings of Fact and Recommendation of the hearing panel, the applicant may file a request for review in accordance with the provisions of Section 5, Rule I of these rules within ten (10) days from service of the decision." Rule I § 5 reads, "The Committee may act in any matter by a subcommittee composed of not less than two Committee members subject to the right of an applicant, upon written application filed within 10 days after being notified of any determination made by such a subcommittee to have the same reviewed and determined by the Committee; provided that an applicant shall not have a right to a review by the Committee of a determination made by a subcommittee to refer an application for investigation." I don't see the connection.

- (D) If the applicant does not request review of the Findings and Recommendations of the panel within ten days of service, the panel's Findings and Recommendations become the decision of the Committee.

## CHAPTER 7. TESTING ACCOMMODATIONS

### Rule 4.80 Eligibility for testing accommodations

Applicants with disabilities are granted reasonable testing accommodations provided that they are capable of demonstrating that they are otherwise eligible to take an examination and, in accordance with these rules, they

- (A) have submitted an Application for Registration;
- (B) submit a petition for testing accommodations on the Committee's forms with the required documentation;
- (C) establish to the satisfaction of the Committee the existence of a disabilities that prevents them from taking an examination under standard testing conditions; that testing accommodations are necessary to address the functional limitations related to their disabilities; and the testing accommodations sought are reasonable and appropriate for their disabilities; and,
- (D) separately apply for the examination for which testing accommodations are requested.

### Rule 4.81 Testing accommodations in general

- (A) Petitions for testing accommodations are processed on a case-by-case basis.
- (B) The Committee makes its best effort to process petitions for testing accommodations expeditiously but does not process petitions that are incomplete.
- (C) Time limits in testing accommodations rules are solely to expedite the processing of petitions and are not jurisdictional. The Committee may extend them for good cause.
- (D) An examination application fee is not refunded if a request for testing accommodations is denied.

### Rule 4.82 Definitions

These definitions apply to the rules on and petitions for testing accommodations.

- (A) A “disability” is a physical or mental impairment that limits one or more of an applicant’s major life activities, and limits an applicant’s ability to demonstrate under standard testing conditions that the applicant possesses the knowledge, skills, and abilities tested on an examination.
- (B) A “physical impairment” is a physiological disorder or condition or an anatomical loss affecting one or more of the body’s systems.
- (C) A “mental impairment” is a mental or psychological disorder such as organic brain syndrome, emotional or mental illness, attention deficit/hyperactivity disorder, or a specific learning disability.
- (D) A “reasonable testing accommodation” is an adjustment to or modification of standard testing conditions that addresses the functional limitations related to an applicant’s disability by modifications to rules, policies, or practices; removal of architectural, communication, or transportation barriers; or provision of auxiliary aids and services, provided that they do not
  - (1) compromise the security or validity of an examination or the integrity or of the examination process;
  - (2) impose an undue burden on the Committee; or
  - (3) fundamentally alter the nature of an examination or the Committee’s ability to assess through the examination whether the applicant
    - (a) possesses the knowledge, skills, and abilities tested on an examination; and
    - (b) meets the essential eligibility requirements for admission.

#### Rule 4.83 Guidelines for testing accommodations

- (A) The Committee publishes guidelines for documenting the need for testing accommodations based on learning disabilities and attention deficit/hyperactivity disorder, including testing required to establish the existence of the disability and the reasonableness of the accommodations requested.
- (B) The Committee may publish guidelines for other disabilities accommodated on past examinations.

#### Rule 4.84 When to file a petition for testing accommodations

- (A) A Petition For Testing Accommodations is not an application for a bar examination. Filing one does not constitute filing the other or initiate its processing. An applicant must separately apply for an examination.
- (B) An applicant is encouraged to file a Petition For Testing Accommodations as far in advance as practicable. To allow sufficient processing time, general applicants are encouraged to submit their petitions at least by the beginning of their last year of law study and by-attorney applicants no later than six months prior to the examination they wish to take. If an applicant waits until the final examination application deadline for a particular examination to petition for testing accommodations, it is possible that processing will not be completed or the applicant will not be able to complete all required or available procedures prior to administration of the examination.
- (C) A Petition For Testing Accommodations must be complete and receipt must be no later than
  - (1) January 15 for the February California Bar Examination;
  - (2) June 15 for the July California Bar Examination;
  - (3) May 15 for the June First-Year Law Students' Examination; or
  - (4) September 15 for the October First-Year Law Students' Examination.
- (D) Depending on the nature of a disability and the date on which a petition is filed, the Committee may determine that the changing nature of a disability requires that the applicant file a new petition nearer the examination date or that a decision regarding the petition be deferred.

#### Rule 4.85 Initial Petition For Testing Accommodations

- (A) An applicant with a qualified disability seeking testing accommodations must file a Petition for Testing Accommodations on the Committee's form, which describes the disability; specifies the accommodations requested; explains how the accommodations address the functional limitations associated with the disability; and sets forth the basis for that determination.
- (B) In addition to the Petition for Testing Accommodations, a qualified applicant seeking testing accommodations must also file one or more of the following Committee forms, as applicable: a Physical Disabilities Verification; a Learning Disabilities Verification; an Attention Deficit/Hyperactivity Disorder Verification; a Mental Disabilities Verification; ~~or~~ a Verification of Other Disability; or such other specific forms the Committee determines is appropriate to verify a physical disability. A form must include information from the petitioner's treating professional that provides a professional

diagnosis of the disability and describes the method used for the diagnosis, including specific tests used. Specific test results may be required to support the diagnosis. The treating professional may provide a description of the functional limitation that requires accommodation, provided the description explains how the nature and extent of limitations were determined.

- (C) If a law school has provided testing accommodations, a qualified applicant must file a Law School Verification, on the Committee's form, completed by a law school official or legal education supervisor.
- (D) If another state has provided accommodations for its bar examination, a qualified applicant must file a Bar Admissions Administrator Verification, on the Committee's form, completed by an official responsible for testing accommodations.
- (E) A Petition for Testing Accommodations is considered complete only upon receipt of all required forms that have been completed according to instructions. A petition that is incomplete by a final examination application deadline is not processed for that examination.

#### Rule 4.86 Subsequent petitions for testing accommodations

- (A) Testing accommodations are not automatically extended upon failure of an examination but must be requested for a subsequent examination any time before the examination application deadline.
- (B) An applicant who is permanently disabled may petition for the same accommodations rather than submit an entirely new petition. A subsequent petition must be made in accordance with Committee requirements.
- (C) An applicant who has a temporary disability or who seeks different accommodations than those previously granted must file an initial petition.<sup>21</sup>

#### Rule 4.87 Emergency petitions for testing accommodations

An applicant who becomes disabled after a final examination application filing deadline may file a Petition for Testing Accommodations, which must include the forms required by Rule 4.85, with a request that it be considered as an emergency petition. Documentation explaining the nature, date, and circumstances of the emergency must be filed with the petition. Receipt of the petition and supporting documentation must be at least ten days before the first day of the examination. This rule does not apply to disabilities that existed before the final deadline for an examination application, whether or not they were diagnosed or a visit to a treating professional could be arranged.

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<sup>21</sup> Rule 4.85.

#### Rule 4.88 Committee response to Petition For Testing Accommodations

- (A) An applicant who has filed a Petition For Testing Accommodations in accordance with these rules is notified in writing within thirty days of receipt when additional information is required, and within sixty days when the petition is granted, granted with modifications, ~~or denied~~, or action is pending. A notice of the status of the petition is sent to the applicant every thirty days thereafter if the petition is still pending.
- (B) If a complete petition is filed at least six months before the examination for which testing accommodations are sought, the applicant may expect a final determination at least a month before the examination.
- (C) With the consent of the petitioner, the Senior Executive or a consultant may confer with a specialist who has treated the petitioner.
- (D) A notice of denial of a Petition For Testing Accommodations or a modified grant is sent by certified mail. The notice states the reasons for the denial or modifications, and advises the petitioner of any right to appeal. The notice may include an excerpt of a consultant's evaluation.

#### Rule 4.89 Applicant response to proposed modification or request for information

An applicant has thirty days to respond to a request for additional information unless an examination schedule requires a shorter time. If the applicant fails to make a timely response, the request is processed on the basis of information submitted.

#### Rule 4.90 Committee review of denied or modified petition

- (A) An applicant notified that a Petition For Testing Accommodations has been denied or granted with modifications may appeal the decision to the Committee. The appeal must be submitted within ten days of the date of the denial or modified grant or some other reasonable period established by the Committee.
- (B) Appeals filed in connection with a particular administration of an examination must be filed no later than the first business day of the month in which the examination is to be administered. Appeals received after that date will be considered in connection with future administration of the examination.
- (B) After reviewing the appeal and supporting documentation, the Senior Executive may withdraw the prior decision and grant the accommodations requested.

- (C) If the Senior Executive does not grant an appeal, the Committee must consider it as soon as practicable. The review must be based on the original petition and supporting documentation provided by the petitioner and the Senior Executive. Oral argument is not permitted. The review must be conducted in closed session either at a regular meeting or one specially convened by teleconference. If a subcommittee has been assigned to consider the appeal, the entire Committee must consider it upon the request of any member of the subcommittee.

#### Rule 4.91 Confidentiality of Petitions for Testing Accommodations

Petitions for Testing Accommodations, documentation submitted in support and evaluations of requests are confidential.

#### Rule 4.92 False or misleading information in Petition For Testing Accommodations

False or misleading information in a Petition For Testing Accommodations is considered in determining an applicant's moral character and may result in a negative determination of moral character.