

PROPOSED AMENDMENTS TO THE *ADMISSIONS RULES*

(Circulated for public comment)

Rule 4.3 Definitions

These definitions apply to the rules in this Division unless otherwise indicated.

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(P) 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 4.4 Confidentiality

Applicant records are confidential unless required to be disclosed by law;¹ 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;² 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, 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.

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ATTACHMENT B

¹ Evidence Code § 1040, Business & Professions Code §§ 6044.5, 6060.2, 6086, and 6090.6.

² Code of Civil Procedure § 2015.5.

Rule 4.26 Legal education

General applicants for the California Bar Examination must

- (A) ~~be graduates~~ have received a juris doctor (J.D.) or bachelor of laws (LL.B) degree from a of law schools approved by the American Bar Association or accredited by the Committee; or
- (B) demonstrate that in accordance with these rules and the requirements of Business & Professions Code §6060(e)(2) 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; or by some combination of these methods; or
 - (2) met the requirements of these rules for legal education in a foreign state or country; and
- (C) have passed or established exemption from the First-Year Law Students' Examination.

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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 or, disbarred, resigned with disciplinary charges pending or is otherwise not in good standing due to disciplinary reasons 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.

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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. An applicant whose positive determination has been suspended will have his or her application processed in accordance with Rule 4.45.~~

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CHAPTER 5. EXAMINATIONS

Rule 4.55 First-Year Law Students' Examination requirement

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

(A) (1) has satisfactorily completed

(4) (i) at least two years of college work as defined by these rules and the Committee's guidelines; and

(2) (ii) the first-year course of instruction

(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

~~(B) (2) is exempt by reason of study in a foreign law school as provided by these rules.~~

(B) An applicant who passes the First-Year Law Students' Examination will receive credit for

(1) all law study completed upon passing the examination within three administrations of the examination after first becoming eligible to take it; or

(2) the first year of law study only upon passing the examination after more than three administrations of the examination after first becoming eligible to take it.

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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 format, scope, topics, content, questions, grading process, and passing score.

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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 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~~ considered as having passed the examination.

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 format, scope, topics, content, questions, grading process, and passing score.

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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, but is not limited to, having unauthorized items, writing or typing after time has been called, looking at another applicant's answers, talking when silence is required, or abusive behavior.

Rule 4.71 Reports of conduct violations

(A) A subcommittee designated by the Committee considers reports of the Chapter 6 Notices that have been issued to applicants during or following an administration of an examination for unacceptable conduct at an examination as soon as practicable and no later than at the first Committee meeting following the examination.

(B) ~~and~~ If the Subcommittee affirms the Chapter 6 Notice, ~~within forty-five days of the meeting determines whether a violation has occurred. If it finds that there has been a violation, it~~ the applicant must be notified 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.

(C) The Committee may establish guidelines for the processing of conduct violations, which may include delegating certain decisions to the Senior Executive so that the Senior Executive may take action on the Committee's behalf. The Committee may establish specific sanctions for certain conduct where the conduct is undisputed, such as bringing an unauthorized item into the examination room, which will not entitle an applicant to request an administrative hearing.

Rule 4.72 Request for an administrative hearing on conduct violation

(A) An applicant notified of a conduct violation for which a specific sanction has not been established by examination rules or guidelines may file a written request for an administrative 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 Senior Executive will designate ~~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 an administrative hearing on a conduct violation, the Committee must schedule an administrative hearing within ninety days, or at a later time for good cause, and notify the applicant of the time and place of the hearing.

Rule 4.73 Procedure for an administrative hearing on conduct violation

(A) The Committee may establish procedures for conducting administrative 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~~ A record of a hearing can be established by tape recording, video recording, or any other means. The applicant may attend the administrative hearing with counsel; make a written or oral statement; and present documentary evidence. Applicant's counsel is limited to observation and may not participate.

~~(B) The applicant may be represented by counsel during the hearing. An attorney A staff member from the State Bar Office of General Counsel represents will present the matter on behalf of 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 administrative hearing, which must be served on the applicant and

counsel present at the hearing, and provided to the Committee for consideration during its next regularly scheduled meeting. 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.

Rule 4.74 Review of Findings and Recommendations

~~(A)~~ If ~~a~~^A applicant served with a panel's Findings and Recommendations may requests review of the Findings and Recommendations within ten days of service, ~~†~~[†] The Committee must consider the applicant's request, any record of the hearing, the Findings and Recommendations, and any supplemental material the applicant provides in accordance with Committee requirements during its next regularly scheduled meeting. Neither the applicant nor applicant's counsel is permitted to attend.

(B) The Committee may on its own determine that the panel's Findings and Recommendations should be reviewed.

~~(B)~~^(C) The Committee may adopt the Findings and Recommendations of the hearing panel or take any other action it deems appropriate.

~~(C)~~^(D) The Committee will notify the applicant within ten days of its determination.

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

CHAPTER 7. TESTING ACCOMMODATIONS

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(A) 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.

If a deadline falls on a non-business day, the deadline will be the next business day. Deadlines will not be extended or waived for any reason except as permitted in Rule 4.87.

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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 provide with the petition ~~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; a Verification of Other Disability; or such other~~ the specific specialist verification forms the Committee determines is are appropriate to verify an applicants' disabilities ~~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~~ provide the designated Committee's form, completed by a law school official or legal education supervisor, with the petition.
- (D) If another state has provided accommodations for its bar examination, a qualified applicant must provide the designated ~~file a Bar Admissions Administrator Verification, on the Committee's form, completed by an official responsible for testing accommodations,~~ with the petition.
- (E) If another testing agency has provided accommodations for its examination, a qualified applicant may be required to provide a copy of the accommodations notice with the petition.
- (F) 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.

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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, 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.