

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.

* * *

[inserted text begins](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[inserted text ends]

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. ~~[deleted text begins]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.[deleted text ends]~~
- (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.

* * *

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) ~~[deleted text begins]be graduates of[deleted text ends]~~[inserted text begins]have received a juris doctor (J.D.) or bachelor of laws (LL.B) degree from a[inserted text ends] law school[deleted text begins]s[deleted text ends] approved by the American Bar Association or accredited by the Committee; or
- (B) demonstrate that in accordance with these rules [inserted text begins]and the requirements of Business & Professions Code §6060(e)(2)[inserted text ends] 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.

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 [text inserted after public comment received]in one year[inserted post public comment text ends here] evidenced by a transcript that indicates the date each course began and ended.

(B) To receive credit for one-half 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 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.

[text inserted after public comment received] (C) To receive credit, a student studying by correspondence or distance learning may not begin a subsequent year of study prior to completion of one year of study as defined in rule 4.3(P) of these rules. [inserted post public comment text ends here]

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~~[inserted text begins] or [inserted text ends] [deleted text begins], [deleted text ends]~~ disbarred, ~~[text inserted after public comment received] has [inserted post public comment text ends here] [deleted text begins] or [deleted text ends] [inserted text begins] resigned with disciplinary charges pending or is [inserted text ends]~~ otherwise not in good standing ~~[text inserted after public comment received] for [inserted post public comment text ends here] [deleted text begins] due to [deleted text ends] [inserted text begins] disciplinary reasons [inserted text ends]~~ 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 4.50 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.

~~[deleted text begins] (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. [deleted text ends]~~

- (B). [text inserted after public comment received] The application of a [inserted post public comment text ends here] [inserted text begins] [deleted text begins] A [deleted text ends] n applicant whose positive determination has been suspended [deleted text begins] will have his or her application [deleted text ends] [text inserted after public comment received] is [inserted post public comment text ends here] processed in accordance with Rule 4.45. [inserted text ends]

CHAPTER 5. EXAMINATIONS

Rule 4.55 First-Year Law Students' Examination requirement

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

(A) [inserted text begins](1)[inserted text ends] has satisfactorily completed

- (1) [inserted text begins](i)[inserted text ends] at least two years of college work as defined by these rules [inserted text begins] and the Committee's guidelines[inserted text ends]; and
- (2) [inserted text begins](ii)[inserted text ends] 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) [inserted text begins](2)[inserted text ends] is exempt by reason of study in a foreign law school as provided by these rules.

[inserted text begins](B) An applicant who passes the First-Year Law Students' Examination will receive credit for [inserted text ends]

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

[inserted text begins] (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. [inserted text ends]

* * *

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 [inserted text begins]format,[inserted text ends] scope, topics[inserted text begins], content, questions[inserted text ends], grading process, and passing score.

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 ~~[deleted text begins]certified to the California Supreme Court[deleted text ends]~~[inserted text begins][deleted text begins]considered as having[deleted text ends][text inserted after public comment received]deemed to have[inserted post public comment text ends here] passed the examination[inserted text ends].

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 [inserted text begins]format,[inserted text ends] scope, topics[inserted text begins], content, questions[inserted text ends], grading process, and passing score.

* * *

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[inserted text begins], but is not limited to,[inserted text ends] 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

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

[inserted text begins](B)[inserted text ends] and~~[deleted text begins]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[deleted text ends]~~[inserted text begins]If the Subcommittee affirms the Chapter 6 Notice,—If it, it[inserted text ends] the applicant [inserted text begins]must be notified[inserted text ends] of its proposed sanction within thirty days. Sanctions may include ~~[deleted text begins]referral of the matter for moral character assessment and/or[deleted text ends]~~ assigning a score of zero for a question, a session, or an entire examination. An examination score

~~[deleted text begins]and determination of moral character[deleted text ends]~~may be held in abeyance pending resolution of the matter.

~~[inserted text begins](C) The Committee may establish guidelines for the processing of conduct violations[deleted text begins],[inserted text begins] which may include delegating certain decisions to the Senior Executive so that the Senior Executive may take action on the Committee's behalf[deleted text ends]. The Committee may establish specific sanctions for certain [text inserted after public comment received]undisputed[inserted post public comment text ends here] conduct [text inserted after public comment received]violations[inserted post public comment text ends here] [deleted text begins]where the conduct is undisputed[deleted text ends], such as bringing an unauthorized item into the examination room[deleted text begins], which will not entitle an applicant to request an administrative hearing.[deleted text ends] [text inserted after public comment received]An applicant sanctioned for an undisputed conduct violation is not entitled to an administrative hearing.[inserted post public comment text ends here]~~

Rule 4.72 Request for ~~[inserted text begins]an administrative[inserted text ends]~~ hearing on conduct violation

- (A) An applicant notified of a conduct violation ~~[inserted text begins]for which a specific sanction has not been established by examination rules or guidelines[inserted text ends]~~ may file a written request for ~~[deleted text begins]a[deleted text ends]~~~~[inserted text begins]an administrative[inserted text ends]~~ 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 ~~[deleted text begins]Committee chair must appoint[deleted text ends]~~~~[inserted text begins]Senior Executive will designate[inserted text ends]~~ 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 ~~[deleted text begins]a[deleted text ends]~~~~[inserted text begins]an administrative[inserted text ends]~~ hearing on a conduct violation, the Committee must schedule ~~[deleted text begins]a[deleted text ends]~~~~[inserted text begins]an administrative[inserted text ends]~~ 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 ~~[inserted text begins]an administrative[inserted text ends]~~ hearing on conduct violation

- (A) The Committee may establish procedures for conducting ~~[inserted text begins]administrative[inserted text ends]~~ hearings on conduct violations~~[deleted text begins], 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 [deleted text ends]. [inserted text begins]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.³

- (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.~~ ³

(C) (B) The Committee has the burden of establishing by clear and convincing evidence that a violation occurred.

(D) (C) 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~~ An applicant ~~served with a panel's Findings and Recommendations~~ requests may request 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.

³ The State Bar Rules consultant recommended deletion of the entire section as there really isn't a need to say anything about who represents the Committee since the proposed amendment removed language designating certain staff for certain tasks.

~~[deleted text begins](D) [deleted text ends]~~ [inserted text begins](E) [inserted text ends]

If the applicant does not request review of the Findings and Recommendations of the panel within ten days of service [inserted text begins] and the Committee does not seek review [inserted text ends], the panel's Findings and Recommendations become the decision of the Committee.

* * *

CHAPTER 7. TESTING ACCOMMODATIONS

- (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. [inserted text begins]Deadlines [deleted text begins]will[deleted text ends][inserted text begins]are[inserted text ends] not [deleted text begins]be[deleted text ends]extended or waived for any reason except as permitted in Rule 4.87.[inserted text ends]

* * *

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 ~~[deleted text begins], 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[deleted text ends]~~.
- (B) In addition to the Petition for Testing Accommodations, a qualified applicant seeking testing accommodations must also [inserted text begins]provide with the petition[inserted text ends] ~~[deleted text begins]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[deleted text ends]~~ [inserted text begins]the[inserted text ends] specific [inserted text begins]specialist verification[inserted text ends] forms the Committee determines ~~[deleted text begins]is[deleted text ends]~~ [inserted text begins]are[inserted text ends] appropriate to verify ~~[deleted text begins] a[deleted text ends]~~ [inserted text begins]applicants' disabilities. [inserted text ends] ~~[deleted text begins]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.~~[deleted text ends]

- (C) If a law school has provided testing accommodations, a qualified applicant must ~~[deleted text begins]file a Law School Verification, on~~[deleted text ends] ~~[inserted text begins]~~[deleted text begins]~~provide~~[deleted text ends]~~[inserted text ends]~~ ~~[text inserted after public comment received]submit the petition with~~[inserted post public comment text ends here] ~~[inserted text begins]~~ the designated~~[inserted text ends]~~ Committee~~[deleted text begins]~~e's~~[deleted text begins]~~ form, completed by a law school official or legal education supervisor~~[inserted text begins]~~[deleted text begins]~~, with the petition~~[deleted text ends]~~[inserted text ends]~~.
- (D) If another state has provided accommodations for its bar examination, a qualified applicant must ~~[inserted text begins]~~[deleted text begins]~~provide~~[deleted text ends]~~[inserted text ends]~~ ~~[text inserted after public comment received]submit the petition with~~[inserted post public comment text ends here] ~~[inserted text begins]~~ the designated~~[inserted text ends]~~ ~~[deleted text begins]file a Bar Admissions Administrator Verification, on the~~[deleted text ends] Committee~~[deleted text begins]~~'s~~[deleted text ends]~~ form, completed by an official responsible for testing accommodations ~~[inserted text begins]~~[deleted text begins]~~, with the petition~~[deleted text ends]~~[inserted text ends]~~.

~~[inserted text begins]~~(E) If another testing agency has provided accommodations for its examination, a qualified applicant may be required to ~~[text inserted after public comment received]~~[deleted text begins]~~provide~~[deleted text ends]~~[inserted post public comment text ends here]~~ ~~[text inserted after public comment received]submit the petition with~~[inserted post public comment text ends here] a copy of the accommodations notice ~~[deleted text begins]~~with the ~~petition~~[deleted text ends]~~[inserted text ends]~~

~~[deleted text begins]~~(E)~~[deleted text ends]~~~~[inserted text begins]~~(F) ~~[inserted text ends]~~ 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 4.88 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. ~~[deleted text begins]A notice of the status of the petition is sent to the applicant every thirty days thereafter if the petition is still pending.~~[deleted text ends]
- (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.