

SUPREME COURT OF GEORGIA
OFFICE OF BAR ADMISSIONS

POLICY STATEMENT OF THE BOARD
TO DETERMINE FITNESS OF BAR APPLICANTS
REGARDING CHARACTER AND FITNESS REVIEWS

The Supreme Court of Georgia has delegated to the Board to Determine Fitness of Bar Applicants the responsibility of deciding whether applicants for admission to the practice of law possess the integrity and character requisite to be members of the Bar of Georgia. The public interest requires that the public be secure in its expectation that those who are admitted to the Bar are worthy of the trust and confidence clients may reasonably place in their attorneys.

In order to be certified for fitness, an applicant is required by the Board to be one whose record of conduct justifies the trust of clients, adversaries, courts and others. The hallmark of such a person is honesty, especially in connection with the application for admission to the Bar. Persons with a record showing a deficiency in honesty, trustworthiness, diligence, or reliability might not be recommended by the Fitness Board to the Supreme Court for admission. The burden is on the applicant to establish and document his or her current good character and fitness for admission.

The Board views character and fitness as including, but not limited to, the following elements:

- The ability to conduct oneself with a high degree of honesty, integrity, and trustworthiness in all professional relationships and with respect to all legal obligations.
- The ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others.
- The ability to conduct oneself with respect for and in accordance with the law and the Georgia Rules of Professional Conduct, (Part IV of the Rules and Regulations for the Organization and Government of the State Bar of Georgia), and A Lawyer's Creed, and the Aspirational Statement on Professionalism (Part IX).
- The ability to exercise good judgment in conducting one's professional business.
- The ability to avoid acts that exhibit disregard for the health, safety and welfare of others.
- The ability to conduct oneself diligently and reliably in fulfilling all obligations to clients, attorneys, courts, and others.
- The ability to comply with deadlines and time constraints.
- The ability to conduct oneself professionally and in a manner that engenders respect for the law and the legal profession.

The Board will conduct a thorough investigation of each applicant, using as a basis for the investigation the Fitness Application submitted to the Office of Bar Admissions by the applicant. There is conduct that the Board may consider the basis for further inquiry. This conduct includes, but is not limited to:

- unlawful conduct
- academic misconduct, including plagiarism
- making of a false statement, including omission of relevant facts in the fitness process
- misconduct in employment
- acts involving dishonesty, fraud, deceit or misrepresentation
- abuse of legal process
- neglect of financial responsibilities, especially failure to repay student loans
- neglect of professional obligations
- violation of an order of a court, especially failure to pay child support
- evidence of mental or emotional instability
- evidence of drug or alcohol dependency
- denial of admission to the Bar in another jurisdiction on character and fitness grounds
- disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction

The Fitness Application that each applicant completes inquires about each of the above.

The applicant may be asked to provide facts, explanation, and documentation, in addition to answers to the questions on the Fitness Application. All required documentation must be current and valid. The Board believes that the questions on the application are clear and direct; but should an applicant ever have a question about whether a question is applicable, the Board's recommendation is that the applicant disclose the information sought. In order to verify the accuracy of the information provided in the application, or to obtain additional information, the Board will contact the applicant's references, employers, colleges and law schools. The Board will contact courts, medical providers, police agencies, credit agencies and creditors as applicable. A failure by the applicant to cooperate in this process could cause a delay or even denial of the applicant's Certification of Fitness.

The Board has developed policies and procedures for many of the above-cited examples of questionable conduct. These include but are not limited to:

A. Unlawful conduct:

If an applicant has been convicted of a felony, the Board expects the applicant to seek a pardon before seeking admission. The Board considers restoration of civil rights to be critical to an applicant's ability to function fully as an attorney, so restoration of civil rights at a minimum is required. If an applicant is unable to obtain a pardon, however, documentation should be provided as to the efforts that have been made and the status of the petition.

The Board will inquire into all arrests even if no conviction resulted. There are many reasons why arrests do not result in convictions, and many of them have no bearing on guilt or innocence. The Board is required to inquire into all areas of possibly relevant applicant misconduct. The applicant is required to report all incidents and to provide evidence of rehabilitation and evidence of current good character. The occurrence of an acquittal or dismissal is relevant, but is not dispositive of the issue. This is not to suggest that the Board will assume that any arrest was due to guilty conduct on the part of the applicant. The applicant's obligation is to be completely forthright regarding all matters about which the Board inquires.

If, at the time of the application, criminal charges are pending against the applicant, the Board will table the application until these charges are resolved. If a conviction results in probation, restitution or some other sentence, the Board will not consider the application until the sentence has been served and probation completed. The Board will then proceed to investigate the facts and circumstances that led to the criminal charges. The Board will adhere to the court's original sentence in calculating the eligibility date for Certification of Fitness to Practice Law, regardless of any earlier termination or completion of probation.

B. Making a false statement:

A pattern of dishonesty in dealings with employers, schools and authorities, including the Office of Bar Admissions, is the most frequent reason for denial of Bar applicants. Giving false information on the application or failing to be entirely forthcoming and completely candid in the application process is a serious error which will have negative consequences for an applicant. The failure to be fully responsive to application questions, or any other lack of candor in the application process, involves sworn statements made to an agency of the Supreme Court itself; since such dishonesty is both current and ongoing, the applicant to whom it might be charged will have a difficult time showing that rehabilitation--which requires more than contrition--has occurred and will be sustained.

C. Neglect of financial responsibilities:

The Fitness Board recognizes that law students sometimes have financial problems associated with the expense of law school, or with ongoing family obligations. The Board also recognizes that mishandling of client funds is a frequent and serious cause for professional discipline. Admission to the Bar does not require a perfect credit record. The Board is interested in whether applicants have dealt honestly and responsibly with their creditors, and whether they are doing so at the time of application. Responsible dealings generally include but are not limited to keeping in contact with the creditor, making payment arrangements, and meeting the terms of those arrangements. If the applicant currently has an unsatisfactory credit record, especially unpaid collections, judgments, liens, or charged off accounts, the Board will table the application until the applicant has provided proof of six current consecutive months of payments in the monthly amount as agreed to by the creditor so that the applicant can show a good faith effort to clear the debts. The deadline for the submission of the required documentation is May 15 for applicants for the July Bar examination and December 15 for applicants for the February examination. These deadlines set by the Board are firm and will not be extended.

Defaulted student loans and failure to make child support payments are of particular concern to the Board. If an applicant has defaulted student loans, the Board will table the application until the applicant has made arrangements with the lender(s) for repayment of the loan(s) and has provided proof of six current consecutive months of payments in the monthly amount pursuant to the plan agreed to by the lender(s). Any arrearage in child support must be paid before an applicant will be certified by the Board.

The six-month payment arrangement should demonstrate a good faith attempt and a reasonable effort to clear the "charged off" accounts, collection accounts, defaults, liens and judgments entered against an applicant. Bankruptcy is a legal process that an applicant may choose to pursue if it is in the applicant's financial interest to do so. The Board will review

carefully, however, whether the filing of the bankruptcy was done solely to avoid Board oversight or to avoid the six month policy. The Board will review carefully the applicant's assumption of financial responsibility, but the filing of the bankruptcy will not in and of itself lead automatically to a denial.

D. Evidence of mental or emotional instability:

Evidence of mental or emotional instability, like evidence of chemical dependency, is one of the factors about which the Fitness Board must inquire. Board members recognize that the stresses of law school, as well as other life factors, frequently result in seeking psychiatric or psychological counseling. The Board encourages any applicant to obtain such counseling or treatment if potential benefits might accrue. The applicant should not allow his or her future Bar application to color that decision. Only severe forms of mental or emotional problems will trigger an in-depth investigation or have an impact on Bar admission decisions. Isolated instances of consultation for conditions associated with emotional stress will not be of serious concern to the Board.

E. Drug or alcohol dependency:

Because evidence of drug or alcohol dependence or abuse is one of the "relevant conduct" factors about which the Board must inquire, the applicant should be prepared to provide treatment records, as well as other records of incidents which were associated with any addictive behavior.

If the applicant has a problem with drugs or alcohol, he or she is strongly encouraged to get the counseling or treatment needed as soon as possible. The applicant's recognition of the problem and the treatment record will be important evidence of rehabilitation, regardless of the seriousness of any misconduct which may have arisen from the chemical dependency. The Board has the option of asking applicants to obtain a drug or alcohol evaluation from a licensed psychiatrist recommended by the Board.

Weight and Significance of Conduct

In reviewing any conduct of concern, the Board will use several factors in assigning weight and significance to that conduct. Among those factors are:

- the evidence of rehabilitation
- the applicant's age at the time of the conduct
- the recency of the conduct
- the reliability of the information concerning the conduct
- the seriousness of the conduct
- the factors underlying the conduct
- the cumulative effect of the conduct
- the applicant's positive social contributions since the conduct
- the applicant's candor in the admissions process
- the materiality of any omissions or misrepresentations

Rehabilitation

Evidence of rehabilitation is the most critical factor the Board uses to determine whether past problems should lead to denial of admission. The Board's standard for admission is current good character and fitness. Any applicant who affirmatively asserts rehabilitation from prior conduct which bears adversely upon such person's character and fitness for admission to the Bar shall be required to produce evidence of such rehabilitation including, but not limited to, the following elements:

- strict compliance with the specific conditions of any disciplinary, judicial, administrative or other order, where applicable
- the taking of responsibility for the conduct
- appreciation for and insight into why the conduct raises fitness concerns
- candor and credibility before the Board
- impeccable character and moral standing in the community
- good reputation for professional ability, where applicable
- lack of malice and ill feeling toward those who by duty were compelled to bring about the disciplinary, judicial, administrative or other proceeding, where applicable
- personal assurances, supported by corroborating evidence, of a desire and intention to conduct one's self in an exemplary fashion in the future
- restitution of funds or property, where applicable
- positive action showing rehabilitation by such things as a person's occupation, religion, or community or civic service

Merely showing that an individual is now living as and doing those things he or she should have done throughout life, although necessary to prove rehabilitation, does not prove that the individual has undertaken a useful and constructive place in society. The requirement of a positive action is appropriate for applicants for admission to the Bar because service to one's community is an implied obligation to members of the Bar. **In Re: Cason**, 249 Ga 806 (1982) provides guidance on the issue of rehabilitation. The applicant bears the burden of demonstrating evidence to alleviate the Board's concerns, based on his or her past conduct, about the applicant's future conduct.

Should there be any questions about the application or the Board's policies, please contact:

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