



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 requisite character and fitness to become members of the State Bar of Georgia. The Board's primary mission is to ensure that the public is 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. This Policy Statement is intended to provide applicants with information about some of the most common issues that lead to further inquiry by the Board and about how the Board views its obligation to protect the public. For a list of the information that the Office of Bar Admissions gathers as a part of the investigatory process for the Board, review the [Character and Fitness Questionnaire](#), which is part of the Fitness Application.

In order to be certified as fit, the Board requires that applicants to the Bar conduct themselves in a manner that would engender the trust of clients, adversaries, and courts. The hallmark of such a person is honesty, especially in connection with the Application for Certification of Fitness to Practice Law. The burden is on the applicant to establish current good character and fitness for admission. If the Board determines that the applicant's current character and fitness are deficient in honesty, trustworthiness, diligence, reliability, or judgment, the applicant will not be recommended for admission. The Board views character and fitness as including, but not limited to, the following:

- conducting oneself with a high degree of honesty, integrity, and trustworthiness in all professional relationships and with respect to all legal obligations;
- using honesty and good judgment in financial dealings on behalf of oneself, clients, and others;
- conducting oneself with respect for and in accordance with the law, the Georgia Rules of Professional Conduct, A Lawyer's Creed, and the Aspirational Statement on Professionalism;
- exercising good judgment in conducting one's professional business;
- avoiding acts that exhibit disregard for the health, safety, and welfare of others;
- conducting oneself diligently and reliably in fulfilling all obligations to clients, attorneys, courts, and others;
- complying with deadlines and time constraints; and
- conducting 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. Conduct that the Board may consider to be the basis for further inquiry includes, but is not limited to:

- unlawful conduct;
- academic misconduct, including plagiarism;
- making a false statement, including the omission of relevant facts in the fitness process;
- misconduct in employment;
- acts involving dishonesty, fraud, deceit, or misrepresentation;
- abuse of the legal process;
- neglect of financial responsibilities;
- neglect of professional obligations;
- violation of a court order, especially an order to pay child support;
- impairment or condition that would inhibit the ability to practice law in a competent, ethical, and professional manner;
- denial of admission to the Bar of another jurisdiction on character and fitness grounds; and
- being the subject of action by a lawyer disciplinary body or other professional disciplinary body of any jurisdiction.

The applicant may be asked to provide facts, explanation, or documentation, in addition to the answers to the questions on the Fitness Application. All required documentation must be current. The Board believes that the questions on the application are clear and direct; but should an applicant ever be uncertain about whether to disclose information, the Board's recommendation is to err on the side of disclosing any information that may be applicable. 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.

With regard to conduct that may be the basis for further inquiry, the Board has developed the following policies and procedures:

A. Unlawful Conduct

The Board considers all significant incidents of unlawful conduct, especially in the period after the applicant started law school, and it requires applicants with a criminal history to provide evidence of rehabilitation and evidence of current good character. In this regard, the Board considers, among other things, any unlawful conduct for which the applicant has been detained or arrested by police, regardless of whether a conviction was obtained. Further, if an applicant has been convicted of a felony, the Board expects the applicant to seek a pardon before seeking admission. If an applicant is unable to obtain a pardon, the applicant should provide documentation showing that reasonable efforts were made to obtain the pardon, including documentation of the status of the petition. The Board considers restoration of civil rights to be critical to an applicant's ability to fully function

as an attorney, so restoration of civil rights is a minimum requirement.

The Board will inquire into all arrests even if the arrest did not lead to a conviction. There are many reasons why arrests do not result in convictions, and many of them have no bearing on guilt or innocence. While the occurrence of an acquittal or dismissal is relevant, it does not necessarily provide full context for the factual circumstances surrounding the arrest or the applicant's conduct that may have led to the arrest. This is not to suggest that the Board will assume that any arrest was due to guilty conduct on the part of the applicant. Rather, it is a reminder that criminal matters are relevant to the Board's inquiries, and that the applicant is obligated to be completely forthright regarding all such matters.

If, at the time of the application, criminal charges are pending against an applicant, the Board will table the application until the 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.

B. Academic Misconduct

The Fitness Board strongly believes that academic misconduct, notably plagiarism, is indicative of dishonesty and untrustworthiness and predictive of dishonesty and untrustworthiness in the practice of law. Academic misconduct in law school is of particular concern to the Fitness Board. Applicants who have engaged in this type of misconduct must show full rehabilitation prior to being certified as fit by the Board.

C. 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 certification of fitness. Giving false information on the application or failing to be entirely forthcoming and completely candid in the application process is a serious matter. In the fitness process, applicants give sworn statements to an agency of the Supreme Court, so the failure to be fully responsive to application questions, or any other lack of candor in the application process is considered to be current and ongoing dishonesty. An applicant who exhibits such lack of candor will have a difficult time showing that rehabilitation — which requires more than contrition — has occurred.

D. Neglect of Financial Responsibilities

The Board recognizes that law students sometimes have financial problems associated with the expense of law school or with ongoing family obligations. Admission to the Bar does not require a perfect credit record. The Board is interested in whether applicants have been honest and responsible 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, or liens, the Board will table the application until the applicant has provided proof of six current consecutive months of payments in the amount agreed to by the creditor so that the applicant can show a good faith effort to pay the debts.

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 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 carefully review the applicant's assumption of financial responsibility, but the filing of the bankruptcy will not in and of itself lead to an automatic denial. However, during the pendency of the bankruptcy proceeding, the applicant may not be eligible for Certification of Fitness. An applicant who has filed a bankruptcy petition must provide a statement as to why it was necessary to file the petition, as well as a copy of the petition and a list of creditors. For Chapter 7, the applicant must provide a copy of the Discharge of Debtor. For Chapter 13, the applicant must provide the current Trustee's Report and demonstrable proof of six current payments to the trustee. If, after the applicant's discharge in bankruptcy, the applicant's credit report shows unpaid collections, judgments, or liens, the applicant must provide proof of six current consecutive months of payments in the amount agreed to by the creditor.

E. Impairment Due to Mental Illness or Substance Abuse

The Board on rare occasion denies certification to applicants whose current ability to practice law is significantly impaired by mental illness or substance abuse. The Board does not deny certification to applicants based on their decision to seek treatment or support for a mental health condition or substance abuse issue. In fact, the Board encourages applicants to seek treatment if needed and believes that an applicant's decision to obtain necessary treatment is indicative of a person who possesses the requisite character and fitness to be a member of the State Bar of Georgia. All information provided to the Board is strictly confidential.

If there is significant evidence that an applicant's ability to function as an attorney may be impaired, the Board may request more information, an informal conference, or treatment records. The Board may also ask an applicant to obtain a drug, alcohol, or mental health evaluation from a Board-certified psychiatrist or licensed psychologist identified by the Board.

F. Lawful Legal Presence

All applicants are required to document their citizenship status. Each year, the Board issues Certifications of Fitness to non-U.S. citizen applicants who have documented that they maintain legal status in the United States. A non-U.S. citizen applicant is required to provide documentation demonstrating that he or she maintains legal status in the United States and will remain in legal status through the character and fitness process. Pursuant to Part A, Section 12 of the Rules Governing Admission to the Practice of Law, all Certifications of Fitness are tentative until an applicant is actually admitted to the practice of law. Therefore, a non-U.S. citizen must provide documentation that he or she remains in legal status until the Certificate for Eligibility for Admission to the Practice of Law is issued.

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:

- 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;
- 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; and
- the materiality of any omissions or misrepresentations.

Rehabilitation

Evidence of rehabilitation is the most critical factor the Board considers to determine whether past problems should lead to the denial of certification of fitness. The Board's standard for admission is *current* good character and fitness. If prior conduct casts doubt on an applicant's character and fitness for admission to the Bar, the applicant must produce evidence of rehabilitation including, but not limited to, the following:

- strict compliance with the specific conditions of any disciplinary, judicial, administrative, or other order;
- taking 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;
- personal assurances, supported by corroborating evidence, of a desire and intention to conduct oneself in an exemplary fashion in the future;
- restitution of funds or property, where applicable; and
- positive actions showing rehabilitation through service to others.

Applicants who merely show that they are now conducting themselves in a manner consistent with what would be expected of a member of the Bar, although necessary to prove rehabilitation, does not prove that they have 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 for members of the Bar. Applicants should consult *In Re: Cason*, 249 Ga 806 (1982) for guidance on the issue of rehabilitation. The applicant has the burden of proving current fitness by a preponderance of the evidence. Where an applicant has a criminal record or has been disbarred, the burden of proof rises to that of clear and convincing evidence.

Should there be any questions about the Fitness Application or the Board's policies, please email gabaradmissions@gasupreme.gov.