

CHARACTER AND FITNESS GUIDELINES

Under Supreme Court Rule 51(c)(6), the Board of Bar Examiners conducts character investigations of all applicants for the Delaware Bar. Among other requirements for admission to the Bar, applicants have the affirmative burden to prove by clear and convincing evidence that they have good moral character and reputation, and that they possess such qualities, aptitudes and disposition as fit an applicant for the practice of law. *See Supreme Court Rule 52(a)(1) and Supreme Court Rule 52(aa)*. In satisfying these requirements, applicants should be persons whose record of conduct justifies the trust of clients, adversaries, courts, and others with respect to the professional duties owed to each, and demonstrates the qualities of honesty, trustworthiness, diligence, responsibility, and reliability.

The Board considers the character and fitness of the applicant to practice law and determines the applicant's compliance with the Rules of the Court and the Rules of the Board. Consistent with Board of Bar Examiners Rule 7, the Board places particular emphasis on an applicant's candor throughout the application process, which does not conclude until an applicant is admitted to the Bar. Providing false or misleading information on the bar application or failing to be entirely forthcoming and candid in the application process will have negative consequences for an applicant. Applicants should consult with their preceptors if

they have any questions about what to disclose; however, applicants are strongly encouraged to err on the side of full candor and completeness in responding to questions on the bar application and in their dealings with the Board.

Subjects of Further Inquiry

The revelation or discovery of any act or omission that calls the applicant's character or fitness into question may be cause for further inquiry before the Board decides whether the applicant possesses the requisite character and fitness to practice law. Such acts or omissions include, but are not limited to, the following:

1. Charge or conviction of a crime, or commission of other unlawful conduct. If, at the time of the application, criminal charges are pending against the applicant, the Board will postpone consideration of the application until such charges are resolved. If a conviction or adjudication results in probation, restitution, or some other sentence, the Board may defer its consideration of the application until the sentence has been served and probation completed.
2. Academic misconduct.
3. Violation of the honor code of the applicant's college, university, or law school.
4. Misconduct in employment.
5. Acts involving dishonesty, fraud, deceit or misrepresentation.

6. Neglect of financial responsibilities. While the Board does not require a perfect credit record, the Board will consider whether an applicant has dealt honestly and responsibly with creditors, and whether the applicant continues to do so at the time of the 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.

7. Neglect of professional obligations, including but not limited to neglect of state and federal tax obligations. The Board will consider whether applicants have taken seriously the responsibility to file a return and pay taxes. If the applicant has failed to either file a return or pay any owed taxes, the Board considers it important that the applicant demonstrate steps taken to remedy any outstanding tax issue.

8. Violation of a court order, including but not limited to failure to pay child support.

9. Military misconduct, including a discharge other than honorable.

10. Denial of admission to the bar in any other jurisdiction on character and fitness grounds.

11. Action by a legal disciplinary organization or agency, or other professional agency of any jurisdiction, including resolved, pending, or unresolved disciplinary complaints against the applicant.

12. Commission of an act constituting the unauthorized practice of law, or complaints alleging the unauthorized practice of law.

13. Making or procuring any false or misleading statement or omission of relevant information, including any false or misleading statement or omission on a college admissions application, a law school or other graduate school application, a bar application (including any submission to the Board), or any other professional or employment application. Dishonesty in dealings with employers, schools, and authorities, including the Board, may be grounds for denial of admission to the Bar. With respect to the law school application, the Board will require evidence that the applicant has made full disclosure of erroneous or omitted information to the law school administration, together with the action (if any) taken by the law school.

14. Abuse of legal process.

15. Acts that demonstrate disregard for the rights or welfare of others.

16. Failure to respond promptly to requests from the Board or the Character and Fitness Committee, or any other failure to cooperate with the Board or the Committee.

17. Evidence of drug or alcohol misuse, abuse, or dependency that affects, or if untreated, could affect the applicant's ability to practice law in a competent and professional manner. The Board may require an applicant to obtain a drug or

alcohol evaluation from a licensed professional evaluator recommended by the Board, at the Board's expense. An applicant who has a problem with drugs or alcohol is strongly encouraged to get counseling or treatment as soon as possible. The applicant's recognition of the problem and the treatment record(s) will be important positive evidence regarding the applicant's character and fitness.

18. Evidence of a physical, mental, or psychological disorder that affects, or if untreated, could affect the applicant's ability to practice law in a competent and professional manner. Applicants should be aware that the Board looks favorably on an applicant's self-recognition of a need for treatment and appropriate utilization of professional services.

19. Any other conduct that reflects adversely upon the character or fitness of the applicant.

Relevant Considerations

In determining the weight, significance, and bearing of any conduct on an applicant's ability to practice law in Delaware, the Board considers the following non-exclusive factors, applied on a case-by-case basis:

- A. The applicant's age at the time of the conduct;
- B. The length of time since the conduct occurred;
- C. The reliability of the information concerning the conduct;

- D. The seriousness of the conduct;
- E. The cumulative effect of the conduct or the information related to the objectionable conduct;
- F. The underlying circumstances of the conduct;
- G. The documented evidence of rehabilitation;
- H. The applicant's acceptance of responsibility for the conduct and compliance with any penalty imposed as a result of the conduct;
- I. The applicant's history since the conduct occurred;
- J. The applicant's candor in the application and admission process;
- K. The materiality of any omission or misrepresentation;
- L. The applicant's cooperation and responsiveness throughout the admissions process; and
- M. Any other conduct that bears on the applicant's character and fitness.