

Character and Fitness for Admission to the Bar

A Guide to the Character and Fitness Standards and Investigation of Applicants to the Bar in Minnesota

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Introduction

One of the prerequisites for the practice of law in Minnesota is good character and fitness. This prerequisite is established in the Rules for Admission to the Bar ("Rules") which govern the admission of qualified individuals to practice law in Minnesota. The Rules are promulgated by the Minnesota Supreme Court, which is empowered to govern the practice of law in Minnesota by Article VI of the Minnesota Constitution and Minnesota Statutes Chapter 481. On behalf of the Minnesota Supreme Court, the Board of Law Examiners and its staff investigate the character and fitness of each applicant to the bar:

In addition to possessing good character and fitness, an applicant must meet the following prerequisites for admission to the bar.

- 18 years of age;
- graduation from an ABA approved law school with a J.D. or LL.B. degree;
- a satisfactory score on the Multistate Professional Responsibility Examination;
- and**
- a satisfactory score on a Minnesota Bar Examination; **or**
- eligibility for admission without examination by years of practice; **or**
- admission by transferring an MBE or UBE score achieved in another jurisdiction.

This brochure answers some frequently asked questions about what criteria the Board uses to judge whether an applicant possesses good character and fitness, how the Board investigates character and fitness, and what an applicant can do to ensure that

his or her application gives the Board the information it needs to certify an applicant's good character and fitness.

1. Who will be recommended for admission to the Bar?

The Board will recommend the admission of those candidates who are certified by the Board as meeting the good character and fitness standards, who pass the Minnesota bar examination or who otherwise qualify based on years of practice or by MBE or UBE score, and who pass a separate examination on professional responsibility. The Minnesota bar examination is a written test containing both essay and multiple choice questions. It is administered by the Board and graded by licensed Minnesota attorneys hired and trained by the Board.

2. What is meant by meeting the good character and fitness standards?

The Board will certify an applicant's good character and fitness for admission if the Board finds that the applicant has a record of conduct which demonstrates that the applicant meets the essential eligibility requirements for the practice of law and justifies the trust of clients, adversaries, courts, and the public. Honesty is the single most important characteristic. A person with a record showing a deficiency in honesty, trustworthiness, diligence, or reliability may not be recommended for admission.

3. What are the essential eligibility requirements for the practice of law?

The essential eligibility requirements for the practice of law are the following:

- The ability to reason, recall complex factual information, and integrate that information with complex legal theories;
- The ability to communicate with clients, attorneys, courts, and others with a high degree of organization and clarity;
- The ability to use good judgment on behalf of clients and in conducting one's professional business;
- The ability to conduct oneself with respect for and in accordance with the law;
- The ability to avoid acts which exhibit disregard for the rights or welfare of others;
- The ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, and federal laws, regulations, statutes, and any applicable order of a court or tribunal;
- The ability to act diligently and reliably in fulfilling one's obligations to clients, attorneys, courts, and others;
- The ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; and
- The ability to comply with deadlines and time constraints.

4. What is required to submit an application?

Each applicant must complete the Board's online [Registration Form](#) and [Application for Admission to the Bar](#), obtain two affidavits attesting to the applicant's good character and fitness to practice law, and execute an authorization and release consenting to investigation by the Board. A fee in the amount prescribed by the [Rules](#) must be included along with the application.

5. How important is candor in the application process?

The Minnesota application is a sworn statement filed with the Board, an agency of the Minnesota Supreme Court. Lack of candor in the application, or in the subsequent character and fitness investigation, including failure to fully and candidly disclose required or requested information, is considered a serious matter. Dishonesty in the bar application process will result in serious consequences for the applicant including delay in admission or denial of admission.

6. What questions are asked on the application?

The application elicits information regarding the applicant's educational background, residence history, employment history, admission in other jurisdictions, names and addresses of references, and a host of information regarding past conduct.

7. What is the most common reason for denial of a bar application?

A pattern of dishonesty in dealing with employers, schools, and the Board of Law Examiners is the most frequent reason for denial of a bar application. Giving false information on the bar application or failing to be entirely candid in the application process are serious errors that will have negative consequences for an applicant. The applicant who fails to be honest on the application will have a difficult time showing that rehabilitation -- which requires more than mere contrition and the passage of time -- has occurred and will continue.

8. Will any incident in my past automatically disqualify me from admission to the bar?

There is no type of misconduct that will automatically render an applicant ineligible for admission to the Minnesota Bar. The Board makes a current assessment of character and fitness for each applicant. If an applicant has a history of serious misconduct, an applicant may still be eligible for admission. The applicant must show evidence of rehabilitation and current good character. The applicant bears the burden of proving that he or she currently possesses the good character and fitness necessary to practice law in Minnesota. The burden of proving current good character is more difficult where the pattern of conduct is recent.

9. What kinds of conduct might show that an applicant is deficient in the necessary qualities of honesty, trustworthiness, diligence, or reliability?

The Board may consider any of the following to be grounds for further inquiry in a character and fitness investigation and possibly as a basis for denying admission to the bar:

- unlawful conduct;
- academic misconduct;
- making of false statements, including omissions;
- misconduct in employment;
- acts involving dishonesty, fraud, deceit or misrepresentation;
- abuse of legal process;
- neglect of financial responsibilities;
- neglect of professional obligations;
- violation of an order of a court;
- conduct evidencing mental or emotional instability;
- conduct evidencing drug or alcohol abuse or dependency;
- denial of admission to the bar in another jurisdiction on character and fitness grounds; or
- disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction.

The Minnesota bar application form includes questions inquiring about each of the above.

10. How does the Board conduct further inquiry?

The Board may make inquiries of the applicant's references, employers, former employers, colleges, and law schools. The Board may also make inquiries of courts, police agencies, credit agencies, and other sources. During the background investigation, the applicant may be asked to provide additional facts and/or explanations concerning any response.

11. How does the Board determine the appropriate weight and significance to give prior conduct?

The Board will use the following factors in assigning weight and significance to prior conduct:

- 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 or information;

- the evidence of rehabilitation;
- 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.

12. What can an applicant do if the applicant believes his or her record may cause further inquiry?

Each applicant is obligated to cooperate fully with the Board's character and fitness investigation, providing prompt and complete responses to all requests for additional records or explanation. If the applicant has a past problem or a past history of problems that reflect on character, the applicant may wish to submit additional written evidence of rehabilitation to the Board along with the application. While the Board does not define rehabilitation, the applicant should review the weight and significance factors listed above in considering what additional evidence he or she might wish to offer.

13. Why is evidence of rehabilitation so important?

Evidence of rehabilitation is critical to the Board's determination of whether past problems are likely to lead to future professional misconduct. If a pattern of misconduct exists and appears likely to continue, denial of admission may result. The Board must assess the applicant's behavioral record to determine whether the problems of the past continue. If they do not, the Board must determine whether the applicant's behavioral record indicates that the applicant's life has changed in ways that suggest misconduct is unlikely to recur.

14. What kind of inquiry will be conducted if an applicant has abused drugs or alcohol, or has been treated for chemical abuse or dependency?

Evidence of drug or alcohol dependence or abuse is one of the relevant conduct factors about which the Board must inquire. If an applicant has been arrested, has had employment terminations, or other conduct that arises out of chemical abuse or dependency, the applicant may wish to provide medical records, treatment records or affidavits verifying the applicant's current good conduct, sobriety, or rehabilitation.

15. If an applicant receives alcohol or drug treatment during law school, will this lead to a delay in admission?

Applicants with drug or alcohol problems are strongly encouraged to get the counseling or treatment they need as soon as possible. The applicant's recognition of the problem and the applicant's success in addressing the problem will be strong evidence of the applicant's rehabilitation.

16. Why are mental or emotional conditions relevant to a bar application?

Severe forms of mental or emotional conditions that are not currently or adequately treated and that impair an applicant's ability to practice law are among the issues that bar examiners may pursue in the character and fitness investigation.

Bar examiners recognize that the stresses of law school and other life factors may result in an applicant having psychological problems. Applicants are encouraged to seek psychological counseling or psychiatric treatment if they feel the need for such treatment. The Board strongly encourages applicants to obtain such counseling or treatment whenever the applicant believes he or she might benefit from it. An applicant should not allow concern about a future bar application to dissuade him or her from obtaining needed treatment. If the applicant states that the applicant has a mental or emotional condition that will impair the applicant's ability to practice law, the Board will inquire further and may request that an applicant provide medical or treatment records.

17. Once the applicant discloses confidential medical, psychological, or chemical dependency treatment records to the Board, will the Board keep those records confidential?

The Board must hold all information and records received in the admission process in the strictest confidence. Rule 13 of the Minnesota Rules for Admission to the Bar specifically addresses this issue. With the exception of release to lawyer discipline agencies, or upon order of the Supreme Court of Minnesota, only the applicant can authorize the release of character and fitness records held by the Board.

18. Why does the Board inquire about misdemeanor or felony arrests not resulting in convictions?

There are many reasons why arrests do not result in convictions, and many of them have no bearing on guilt or innocence. The Board inquires into all areas of possible relevant applicant misconduct. The applicant must report all criminal incidents and provide evidence of current good character. An acquittal or dismissal of charges is relevant but not dispositive of the issue. The applicant's obligation, and the applicant's best choice, is to be completely forthright and honest regarding all matters about which the Board inquires.

19. Why are financial problems, such as past due debts, relevant to admission?

The Board recognizes that law students sometimes have financial problems associated with the expense of law school or with on-going financial obligations. The Board also recognizes that mishandling of client funds is a frequent cause for professional discipline. The Board is concerned about the admission of persons with a pattern of financial irresponsibility.

Admission to the bar does not require a perfect credit record. The Board is primarily interested in determining that applicants have dealt honestly and responsibly with their creditors. Responsible dealings generally include taking actions such as, but not limited

to, keeping in contact with the creditors, making good faith payment arrangements, making partial payments, reaffirming the underlying obligation, and/or working with a consumer credit counseling organization to address debt issues.

20. When does the Board recommend conditional admission?

The Board may recommend conditional admission for an applicant who has a record of conduct which raises character and fitness issues and who has shown evidence of rehabilitation. A record of unlawful conduct arising from alcohol abuse and a recent commitment to reform and rehabilitation is a common situation that may merit conditional admission. Issues involving financial responsibility may also result in conditional admission.

In some instances the Board will notify an applicant of the possibility of conditional admission. An applicant also may suggest to the Board that he or she would be willing to be conditionally admitted. Conditional admission does not take place without both the Board and the applicant agreeing on the terms of conditional admission in a Consent Agreement for Conditional Admission. Rule 16 provides additional information on the conditional admission process.

21. What are the conditions required for conditional admission?

All lawyers admitted conditionally must agree to continue to update their answers on the Application for Admission to the Bar of Minnesota, cooperate with the Board, remain law-abiding, and file third-party monitoring and self-monitoring reports. Depending upon the circumstances which underlie the conditional admission, a conditionally admitted lawyer may be required to submit to random drug testing, attend sober support group meetings, become involved with Lawyers Concerned for Lawyers, continue mental health treatment, and/or provide evidence of financial responsibility. Additional requirements may also be included within the terms of the Consent Agreement.

22. Is a lawyer's conditional admission public information?

No. The fact that a lawyer has been admitted conditionally is confidential subject to the Board's Rules and the Rules on Lawyers Professional Responsibility. Neither the certificate of admission to practice law nor the lawyer's public record with the Minnesota Lawyer Registration Office will state that the lawyer is conditionally admitted. The Board will inform the Office of Lawyers Professional Responsibility (OLPR) when a lawyer is conditionally admitted so that OLPR can monitor whether the lawyer receives any complaints of unprofessional conduct. If there is a complaint of unprofessional conduct or if the Board finds that the lawyer has violated the Consent Agreement, the relevant portions of the lawyer's application file are transmitted to OLPR.

23. What happens if the conditions are violated?

If the Board determines that a violation of the Consent Agreement has occurred, it may file a complaint with OLPR. The Board then transmits relevant portions of the application file to OLPR and the complaint is handled under the provisions of the Rules on Lawyers Professional Responsibility. The Director of OLPR may extend and/or modify the Consent Agreement, initiate proceedings to revoke the conditionally admitted lawyer's license, or dismiss the complaint.

24. How long is the conditional admission period and what happens when it is completed?

The conditional admission period may be up to 24 months. If, at the end of the conditional admission period, the conditionally admitted lawyer has successfully complied with the terms of the conditional admission, the lawyer and OLPR will be notified in writing that the lawyer's name has been removed from the list of conditionally admitted lawyers.

25. What should I do if I have questions about my past conduct and how to disclose it on my application?

Applicants or potential applicants to the Minnesota bar who have questions about how past conduct might impact their application for admission should feel free to call the Board office for a confidential consultation. Applicants should call (651) 297-1857 and ask to speak to the Attorney for Character and Fitness.