

# 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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180 East 5th Street, Suite 950  
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651-297-1857

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## Introduction

Demonstration of good character and fitness is a prerequisite for the practice of law. 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. The Board strongly encourages applicants to review the bar application questions well in advance of applying.

This guide 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. 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, provide a certified driving record, 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. An applicant must complete any required supplemental forms and attach requested documentation. Incomplete applications may be rejected and will otherwise delay the application process.

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;<sup>1</sup>
- a scaled score of 85 or higher on the Multistate Professional Responsibility Examination (MPRE);  
**and**
- a score of 260 or higher on a Minnesota Bar Examination; **or**
- eligibility for admission without examination by years of practice; **or**
- admission by transferring a qualifying MBE or UBE score achieved in another jurisdiction.

## **2. 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.

## **3. 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 current 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. Full and complete disclosure is important. In addition, serious misconduct in an applicant's past will require an applicant to provide evidence of rehabilitation. The burden is on the applicant to prove a current ability to meet the essential eligibility requirements to practice law in Minnesota.

## **4. 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 be honest and candid with clients, lawyers, courts, the Board, and others;

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<sup>1</sup> An Applicant may also qualify to sit for the Minnesota Bar Examination if the Applicant has 1) a bachelor's degree from an institution accredited by an agency recognized by the United States Dept. of Education; 2) a J.D. from a law school located within any state or territory of the United States or the District of Columbia; and 3) that the applicant has been actively licensed and engaged in the practice of law as a principal occupation for 60 of the last 84 months.

- 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.

### **5. How important is candor in the application process?**

The Minnesota application is a sworn document 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 questions on the bar application permit the Board to verify that an applicant meets the essential eligibility requirements to practice law. The application elicits information regarding the applicant's educational background, residence history, employment history, admission in other jurisdictions, names and addresses of references, and information regarding past conduct. The Board strongly encourages applicants to review the bar application well in advance of application.

### **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 and 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. An applicant with a history of serious misconduct who is candid with the Board and fully discloses the issues in the applicant's past will be viewed more positively by the Board than an applicant who fails to disclose or under-discloses an incident to the Board. The more serious the misconduct, the more evidence of rehabilitation the applicant must provide. 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, the applicant has not shown evidence of rehabilitation, or the applicant lacks candor during the admission process.

## **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:

- unlawful conduct;
- academic misconduct;
- making of false statements, including omissions;
- misconduct in employment;
- acts involving dishonesty, fraud, deceit or misrepresentation;
- acts which demonstrate disregard for the rights or welfare of others;
- abuse of legal process;
- neglect of financial responsibilities;
- neglect of professional obligations;
- violation of an order of a court, including an order for child support;
- conduct evidencing current mental or emotional instability that may impair the ability to practice law;
- conduct evidencing current drug or alcohol abuse or dependency that may impair the ability to practice law;
- 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, law schools and others. 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, documents, 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?**

If the applicant has conduct or a pattern of conduct that raises concerns as to the applicant's ability to meet the essential eligibility requirements, 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 in Rule 5B(5) in considering what additional evidence he or she might wish to offer. Each applicant is obligated to cooperate fully with the Board's character and fitness investigation by providing prompt and complete responses to all requests for additional records or explanation. Applicants may call the Board office to discuss additional materials to submit.

### **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, the Board may deny the application. The Board must assess the applicant's behavioral record to determine whether the problems of the past continue. If it appears that the misconduct is in the past, 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. An applicant with a significant conduct issue in the past who has shown sufficient evidence of rehabilitation and a current ability to meet the essential eligibility requirements may be admitted without further delay.

**14. If an applicant has a history of chemical dependency or abuse, how will that impact the character and fitness investigation?**

A pattern of misconduct related to chemical dependency or abuse will result in additional investigation. The Board regularly recommends licensing of applicants who have sought treatment for chemical dependency issues and who are able to meet the essential eligibility requirements. 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. The Board views the decision to seek chemical dependency treatment as a positive factor in evaluating the application.

**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. The applicant may be admitted without further delay or, if the counseling or treatment is very recent, admitted conditionally pursuant to Rule 16.

If an applicant has conduct issues in the file that suggest that an applicant has a current chemical dependency issue, the Board may request a chemical dependency evaluation at the Board's expense. The Board will factor the recommendations of the evaluator in making a determination on the file. This may delay the Board's determination.

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

The Board asks questions related to mental health issues because of its responsibility to protect the public by determining the current fitness of an applicant to practice law. The Board regularly recommends licensing of applicants who have sought treatment. The Board encourages applicants to seek treatment. The Board reviews the information received to determine whether an applicant is able to meet the essential eligibility requirements to practice law.

Bar examiners recognize that the stresses of law school and other life factors may result in the need to seek assistance. 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. The Board views the decision to seek treatment as a positive factor in evaluating applications. Recent or severe conditions may result in additional inquiry. The Board seeks to obtain the information in the least invasive way possible while balancing the need to protect the public. If a prospective applicant has any concerns, the applicant may

call the Board office for information on how the Board has handled similar situations in the past.

**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 14](#) of the Minnesota Rules for Admission to the Bar specifically addresses this issue. With limited exceptions as stated in the Rules including the release to lawyer discipline and bar admissions agencies, or upon order of the Supreme Court of Minnesota, only the applicant can authorize the release of 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 aspects 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 inquires as to financial circumstances and past due debt because the Board 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 and the Board recognizes that law students may carry substantial student loan debt. The Board's inquiry into financial issues is to determine if an applicant has dealt honestly and responsibly with all 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. Timely filing and payment of taxes and prompt payment of judgments is also important.

**20. Does the Board interview all applicants to the bar; what prompts the Board to request an interview?**

No. The Board interviews only applicants whose file raises questions as to the applicant's ability to meet the essential eligibility requirements and whom the Board believes will be able to provide additional information that may satisfy the Board's concerns.

Each year, roughly 1% of applicants to the bar are invited to meet with the character and fitness committee. The attorney for character and fitness and members of the Board will ask the applicant questions related to the application. The applicant may be represented by counsel during the interview, but is not required to be. The interview is conducted under oath and a court reporter is present. The applicant will have the opportunity to provide additional information and may supplement responses following the interview if the applicant wishes to do so. Following the interview, the committee will make a recommendation to the Board at the next meeting. The Board may recommend the applicant for admission without delay, recommend the applicant with conditions, request additional information, or, in rare circumstances, deny the application.

The Board recommends that applicants who are invited to interview before the Board carefully review all documentation that the applicant has provided to the Board, review the questions asked by the bar application and the Board, and be prepared to address any discrepancies in the information provided. For example, if an applicant has stated that the applicant was cooperative during an arrest for driving while after intoxicated, but other collateral information shows that the applicant was belligerent, the Board may inquire further during the interview.

## **21. When does the Board recommend conditional admission?**

The Board may recommend an applicant for conditional admission if the applicant's past conduct raises concerns under Rule 5 (Standard for Admission), but the applicant's current record of conduct evidences a commitment to rehabilitation and a current ability to meet the essential eligibility requirements to practice law. The conditional admission process is in place to enhance the likelihood of an applicant's success in practicing law. The conditions placed on the applicant are tailored to address the specific issues of conduct that raised concerns to the Board. Conditional admission provides a mechanism for the Board to protect the public while providing applicants the ability to practice under agreed-upon terms. Common situations for conditional admission include when an applicant is currently on probation with the court, is on conditional admission in another jurisdiction, has misconduct related to chemical dependency and very recent sobriety, or has significant misconduct and insufficient evidence of rehabilitation.

[Rule 16](#) provides additional information on the conditional admission process.

## **22. 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, notify the Board if they apply in another jurisdiction, 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, provide documentation of successful completion of



probation, continue mental health treatment, and/or provide evidence of financial responsibility. Additional requirements may also be included within the terms of the Consent Agreement.

### **23. 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.

### **24. What happens if the conditions are violated?**

If the Board's staff determines that a violation of the Consent Agreement has occurred, the matter may be referred to the Conditional Admission Committee for further review. The Committee may conduct further investigation, request documentation, and interview the conditionally admitted lawyer. A minor violation, such as an applicant's failure to timely submit a report, will likely result in a warning from staff. In addition, a petty misdemeanor is unlikely to warrant further inquiry unless there are multiple occurrences. If the applicant fails to cooperate with the Board, repeatedly violates the Consent Agreement, or a violation is serious, the Committee may make formal findings and recommend that the Board file a complaint with OLPR. If approved, 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.

### **25. How long is the conditional admission period and what happens when it is successfully completed?**

The conditional admission period may be up to 24 months.<sup>2</sup> 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.

### **26. If my application is denied, do I have the right to an appeal?**

Yes. If the Board issues an adverse determination, an applicant has 20 days to appeal the determination. The adverse determination will provide the applicant with specificity as to the reasons for denial. If an applicant appeals, the Board will then set the matter for

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<sup>2</sup> Effective July 1, 2017, the conditional admission period may be up to 60 months.

hearing before the full Board. The applicant will be provided with a copy of the application file, with the exception of Board work product. The Board is represented by the Attorney General's office in the hearing. The applicant may be represented by counsel during the interview, but is not required to be. Both sides may submit exhibits and proposed findings. Both may also call witnesses. A prehearing will be conducted by telephone to address the hearing details, witnesses and stipulations.

Following the hearing, the Board will issue findings and a final determination of the application. The Board's decision is generally provided within 30-60 days of the hearing. An applicant may appeal the Board's determination to the Supreme Court.

**27. If my application is denied, can I reapply?**

An applicant may reapply three years from the date of the final determination, unless a shorter period is stated in the Board's determination.

**28. What does it mean when the Board offers to postpone determination on an applicant's file?**

The Board may offer to postpone determination on an applicant's file if the file contains recent character and fitness issues and a relatively brief record of rehabilitation from past conduct, to permit the applicant time to provide additional information to the Board. The period varies but is often 9-12 months in duration. The Board may offer this option to allow the applicant an opportunity to more fully develop and document a history of rehabilitation and evidence that he or she is able to satisfy the essential eligibility requirements for the practice of law at the time the Board considers and makes a final determination of the application. An applicant is not required to accept an offer to postpone determination and may request that the Board instead make a determination based upon the evidence that then exists.

**29. 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 an Attorney for Character and Fitness or the Director. You may remain anonymous during the call. Lawyers representing applicants or potential applicants are also encouraged to call the Board office for additional information on any of the topics referenced in this brochure.