



The State Bar of California

OPEN SESSION AGENDA ITEM 706 NOVEMBER 2022

DATE: November 17, 2022

TO: Members, Board of Trustees

FROM: Tara Clark, Program Manager, Office of Admissions
Christina Doell, Program Manager, Office of Admissions
Kathy Sher, Senior Program Analyst, Programs Division

SUBJECT: Proposed Amendments to the Rules Regarding Testing Accommodations,
Moral Character, Practical Training of Law Students, and Law Office Study:
Request to Circulate for Public Comment

EXECUTIVE SUMMARY

The State Bar is conducting a comprehensive review and evaluation of Admission Rules, practices, procedures, applicant-facing materials, and the Applicant Portal in the Admissions Information Management System (AIMS). The review is intended to identify areas where Admissions procedures can be improved to streamline processes, to create greater transparency and consistency in the administration of Admissions programs and procedures, and to eliminate unnecessary barriers to participation in Admissions programs. The initial areas identified for this review are consideration of (1) the testing accommodations process, (2) the Moral Character Determination process, (3) the requirements and application procedures for the Practical Training of Law Students (PTLS) program, and (4) the requirements for studying law in the Law Office Study (LOS) program.¹ The Committee of Bar Examiners recommends amending the rules to improve the administration in these areas for the benefit of applicants and State Bar staff.

At a very high level, the most significant changes reflected in the rules include:

For Testing Accommodations:

¹ Additional rules proposals are anticipated to be presented to the Board in May 2023 addressing special admissions programs, eligibility, exam administration, and exam grading.

- Address new processes for requesting the same or equivalent testing accommodations as those granted by other testing entities.
- Limit the number of forms and documentation required to determine an applicant's need for testing accommodations.
- Change the process for "appellate" review of an applicant's file from the Committee of Bar Examiners to review by a disability accommodations expert.
- Add oversight responsibilities for the committee to ensure consistent and accurate application of standards, processes, and to identify trends that may suggest needed changes to the rules and processes. (See Attachments A, B, and C.)

For Moral Character Determinations:

- Codify the existing practice of prompting applicants to update their moral character application 18 months into the 36-month validity period of a positive moral character determination.
- Clarify when a moral character application may be deemed abandoned.
- Eliminate unnecessary rules related to processes governed by the Rules of Procedure of the State Bar of California. (See attachments D and E.)

For Practical Training of Law Students:

- Authorize students in the Law Office Study program and in Master of Laws programs to participate in the PTLS program.
- Eliminate the requirement that students have completed or be currently enrolled in courses in evidence and civil procedure to be eligible to participate in the PTLS program. (See Attachments F, G, and H.)

For Law Office Study:

- Allow LOS students to complete their studies in a physical location other than the law office or judge's chambers with which they are associated, while maintaining a requirement for a minimum number of hours of in-person supervision. (See Attachments D and E.)

Because the items were considered independently, the committee recommended that the proposed rule changes set forth in Attachments regarding moral character determinations, the PTLS program, and the LOS program be circulated for a 45-day public comment period and the proposed rule changes regarding testing accommodations be circulated for a 60-day comment period. Staff is now recommending that all proposals be circulated for a 60-day public comment period.

BACKGROUND

The State Bar is undertaking a comprehensive review and evaluation of its Admission Rules, practices, and procedures to ensure that the requirements, practices, and procedures are consistent with applicable law, clear to applicants, and applied with consistency. Staff is also

examining each rule to identify and eliminate any that do not further the State Bar's public protection mission, but rather that serve as unnecessary barriers that may stand in the way of applicants participating in specific Admissions programs.

The committee has started the review by looking at the areas of testing accommodations, Moral Character Determinations, the Practical Training of Law Students Program, and the Law Office Study Program, because of the broad impact that improvements in these areas will have. At its meeting on October 14, 2022, the committee approved forwarding each of these proposals to the Board with the recommendation that the Board circulate them for public comment.²

Testing Accommodations: The Rules of the State Bar, Title 4 Division 1 Chapter 7, set forth the procedures for requesting testing accommodations for the California Bar Exam (CBX) and the First-Year Law Students' Exam (FYLX).^{3,4} The rules, and the manner in which they are implemented, are intended to ensure that individuals with disabilities have equal access to the FYLX and CBX as those without disabilities, so that the exam evaluates an individual on the knowledge, skills, and abilities the exam is designed to measure, and is not a reflection of the effects of any disability.

Applicants with disabilities may submit a request for testing accommodations to take an exam administered by the committee. A request is granted when the applicant demonstrates they have a disability or disabilities that prevent them from taking an examination under standard testing conditions; the testing accommodations requested are necessary to address the functional limitations related to their disability or disabilities; and the testing accommodations requested are reasonable and appropriate in light of their disability or disabilities (Rule 4.80(C)).

The State Bar has received criticism, and has been party to litigation, from applicants and some in the disability rights community about the amount of documentation the State Bar requires, the cost and time required to secure that documentation, the reliance on State Bar consultants over the recommendations of the applicant's medical professional(s), responsiveness of the State Bar, including the time to process requests, and the departure of our current procedures from the guidelines for testing accommodations issues by the US Department of Justice (DOJ guidelines). In an effort to get better information about the concerns with the State Bar's rules and process, we conducted a stakeholder input forum designed to get input on the current process and recommendations for improvement. After the first forum, the State Bar developed a framework for handling testing accommodations and implementing Rule 4.80(C). A second forum was held to get input on the draft framework. The framework was revised again and presented to the Committee of Bar Examiners. This framework (see Attachment B) responds to many of the issues raised at the stakeholder forums as well as concerns that have been

² Minor, nonsubstantive changes have been made to some of the proposals since the presentation to the committee to correct typographical or grammatical errors.

³ All further rule references are to the Rules of the State Bar unless otherwise noted.

⁴ Although these rules do not govern legal specialization exams (LSX), the process adopted for evaluation of requests for testing accommodations for the CBX and FYLX is applied to requests for testing accommodations from those sitting for the LSX.

previously addressed to the State Bar, committee, and Board. The framework, forms, and rules are guided heavily by the Consent Decree arising out of *The Department of Fair Employment and Housing v. Law School Admission Council* litigation (LSAC Consent Decree) and the DOJ guidelines. This revised process seeks to limit applicants' need to secure additional documentation or testing, relying heavily on proof of past testing accommodations on high stakes exams, and, where additional documentation is necessary, limiting it to that which is reasonable and narrowly tailored to determine the applicant's need for the requested testing accommodations.

In direct response to public comment presented to the committee at its October 14 meeting, and borrowing language from the DOJ guidelines, staff revised the framework to specify that "[t]he State Bar shall defer to documentation from a qualified professional who has made an individualized assessment of the candidate that supports the need for the requested testing accommodation(s)." Staff further added that "[w]here the State Bar finds that the documentation does not support the need for the requested accommodation(s), the State Bar shall supply an explanation."

Moral Character: Applicants for admission to practice law in California must be of good moral character. (See Cal. Bus. & Prof. Code, § 6060(b)(1) and Rule 4.40.) Good moral character is defined as including "qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the law, and respect for the rights of others and the judicial process." (Rule 4.40(B).) All applicants for admission to the State Bar, as well as California's special admissions programs, are required to submit a lengthy application to allow the State Bar to begin the process of assessing whether the applicant possesses the requisite moral character. The application includes information about residence history, employment history, civil lawsuits, criminal matters, honor code violations, bankruptcies, driving records in each state in which an applicant was licensed, military service, educational history, certifications and licenses, a discussion of other bars the applicant applied for but has not been admitted to, complaints and professional discipline related to a business, trade, or professional license, and similar matters.

As part of the initiative described in the Executive Summary, State Bar staff examined not just California's rules, forms, and procedures that pertain to moral character, but also the forms used in other states to determine if California's process either required too much information or too little in our effort to determine whether an applicant possesses the requisite character for admission to the bar.

Practical Training of Law Students (PTLS): California's PTLS program allows law students certified by the State Bar and working under the supervision of an attorney to provide specified legal services to clients. The purpose of the PTLS program is to improve the training of lawyers by giving law students the opportunity to gain hands-on experience while ensuring the protection of the clients they work with by having the students closely supervised. The requirements for students participating in the PTLS program, requirements for supervision of PTLS students, and restrictions as to what services PTLS students may provide are set forth in California Rules of Court Rule 9.42 and State Bar Rules 3.1 to 3.10.

In October of 2021, the California Supreme Court issued an Order directing the State Bar to consider whether changes to allow Law Office Study participants to participate in the PTLS program would be “prudent,” and whether any further rule amendments should be made to provide additional protections to the public and to the judicial system. [Order in re Petition to Amend Cal. Rules of Court Rule 9.42 \(Oct. 20, 2021, No. S269663\) \[2021 Cal. LEXIS 7360\]](#).

The review ordered by the Supreme Court on this one specific question has been folded into the broader review of the PTLS and LOS programs being undertaken as part of the consideration of Admissions Rules, practices, and procedures more generally)

Law Office Study (LOS): The Law Office Study program allows individuals to qualify to take the California Bar Exam without attending law school, by studying law for four years in a law office or judge’s chambers. By allowing aspiring lawyers to complete their legal education by studying with an attorney or judge, California has created a path to licensure for those who may not be able to attend a traditional law school because their other responsibilities make attendance difficult, because they do not do well in traditional academic settings, or for financial reasons. The program is authorized by Business and Professions Code section 6060 (e)(2) (B) and (C), and the specific requirements for study in a law office or judge’s chambers are set out in State Bar Rule 4.29.

DISCUSSION

The rule changes proposed in this item will ensure clarity for applicants and Admissions program participants and consistent application of rules and policies by staff, update obsolete or outdated rules, procedures, and practices, and eliminate barriers to participation that are not necessary for public protection.

TESTING ACCOMMODATIONS

The most substantive revisions included in the rule proposal are described below. A more comprehensive explanation of the rule changes, and the intersection of the rule changes with the framework and the forms⁵ (see Attachments B and C) can be found in the agenda item for the October 14, 2022, committee meeting, available here: [testing accommodations CBE agenda item](#). Note that the most significant changes may in fact be to how testing accommodations are processed in accordance with the rules. Those process changes are largely reflected in the framework itself, and not the rule revisions.

Requests for Same or Equivalent Testing Accommodations

The rules specify that a request for same or equivalent testing accommodations must be accompanied by a copy of the notice of approved accommodations and certification by the

⁵ The forms are still considered draft. They have been revised by a plain language editor, but additional formatting will be performed by those proficient in creating forms. An instruction form will also be created to assist applicants and qualified professionals in completing these forms, as well as a form describing the standard testing conditions and identifying the typical accommodations approved by the State Bar. Additionally, the forms will be programmed into the Admissions Applicant Portal, as it is expected that most applicants will access and complete them online.

applicant that they are still experiencing the same functional limitations caused by the disabilities for which the accommodations were previously approved. This approach is further illuminated in the framework, which provides that accommodations received on specified prior exams will be approved for a California administered exam without the need for additional documentation from a doctor or other qualified professional if the request is for the same or lesser testing accommodations received on that exam, if the applicant certifies they are experiencing the same functional limitations as when the prior accommodations were approved, and if the approval for the accommodations occurred within the prior five years. Comments were raised at the Committee meeting about this last requirement, as it does not derive directly from the DOJ guidelines or LSAC Consent Decree. The LSAC Consent Decree, however, does authorize the LSAC to require that medical testing used in support of a testing accommodation request based on a mental or cognitive impairment have occurred within the past five years. Although staff is not proposing changes to the rules at this time, and believes that the five-year limitation is appropriate, staff believes it will be beneficial to highlight this issue in the request for public comment to determine if changes are appropriate.

Evaluation and Report of the Disability Accommodations Expert

Currently, evaluations of testing accommodation requests are performed by State Bar staff. In many instances, especially with requests relating to accommodations for learning disorders, attention deficit hyperactivity disorder, and psychological disabilities, State Bar staff seek the input of contracted medical consultants with expertise in various disabilities to make these decisions. Under the proposed rules, in contrast, no requests will be denied without an evaluation by a disability accommodations expert.⁶ In another change, when requests for testing accommodations are denied or approved with modifications, the applicant will be provided a copy of the report prepared by the disability accommodations expert, and not simply select excerpts from the report.

Requests for “Appellate” Review

The proposed rules intend to ensure that requests for testing accommodations are handled consistently, in accordance with the governing law, and not influenced by personal experiences or biases. The proposed rules streamline the request, the evaluation, and the review (currently described in the rules as an appeal), to ensure that applicants are only required to submit documentation that is reasonable, limited, and narrowly tailored to the information needed to determine an applicant’s disability-related functional limitation(s), their specific access needs, and how those needs relate to the testing accommodation(s) requested. To carry out that intent, the rules not only provide for a disability accommodations expert to evaluate requests for accommodations, but also for another disability accommodations expert to handle requests for review.

This change eliminates the committee as the reviewing body. In addition to ensuring consistency and fairness to all applicants, this should also streamline the review process. The

⁶ When the disability accommodations expert believes the input of medical professionals is necessary, their input will still be sought, and will be incorporated in the recommendation of the disability accommodations expert.

proposed rules also clarify that the decision issued after the request for review shall be final, and there is no further opportunity to request State Bar review of the request.

The rules, however, make clear that the committee will continue to exercise oversight to ensure that staff is carrying out the process consistent with the rules and framework, that the goals of the revised process are achieved, and that focused attention is given to the impact of the changes in the process.

Timeline

Proposed rule 4.88(B) leaves unaltered the timeframe within which the applicant is to be notified of the outcome of the State Bar's evaluation of the request for testing accommodations. Under the new framework, staff anticipates being able to process the majority of requests—especially those requesting the same accommodations approved for prior exams within the past five years—significantly more expeditiously than under the current process. However, as we roll out the new process, update the programming in AIMS, and gain experience with processing requests under the new framework, it would be unwise to substantially change the timeline in the rules. We anticipate being in a position to update that time frame in a subsequent revision to the rules.

MORAL CHARACTER

The most substantive proposed rule changes are described below. A more comprehensive explanation of the rule changes can be found in the agenda item for the October 14, 2022, committee meeting, available here: [Moral Character CBE agenda item](#).

The proposed rule revisions generally reflect the themes of codifying current practice, ensuring consistency within the rules, clarifying areas of confusion for applicants, modifying definitions to be clearer and more accurate, eliminating or modifying inconsistent, inaccurate, or unnecessary rules, and transitioning to gender-neutral pronouns.

18-Month Application Update

A positive moral character determination is valid for 36 months. During the validity period and before an applicant is admitted to practice law in California, applicants have a continuing duty to provide additional or new information relevant to their moral character to the Office of Admissions. Experience has shown that applicants do not always remember to inform—or perhaps sometimes intentionally do not inform—the Office of Admissions of events that might impact their moral character. Proposed Rule 4.50(C) codifies a current practice to ensure that the State Bar has the information necessary to meet its public protection obligation by prompting applicants to provide updated or new information 18 months after the issuance of a positive determination. If an applicant fails to provide the requested information, the positive determination will be suspended, but may be reinstated once the information has been received.

Definitions and Clarifying Amendments

The committee proposes to amend rule 4.3 to include a definition of the term “informal conference,” and to reflect the fact that the State Bar primarily sends information to applicants by “electronic transmission,” rather than via the US mail. Amendments are also proposed to rules 4.44(B) and 4.47(B) to eliminate rules related to procedures that are separately governed by the Rules of Procedure of the State Bar of California.

Conforming amendments are proposed to rules 4.42 and 4.50 regarding the obligation of applicants to notify the Office of Admissions of changes or new information relevant to the application.

The proposed changes to rules 4.43 and 4.45(B)–(C) provide clarity for the applicants as to status updates the State Bar is required to provide and the events that cause an application to be deemed abandoned.

Proposed revisions to rule 4.46(B) seek to accurately reflect the informal nature of an informal conference.

Two Sets of Proposed Amendments

In addition to this agenda item, the Board will be considering on the same day adoption of amendments to eliminate the five-year expiration date on a passing bar exam score. That amendment package contains revisions to two rules (Rule 4.51 and 4.52) also proposed to be amended by this rules package. As a result, Attachment E contains proposed amendments to the moral character rules that incorporate those other amendments. Attachment D reflects the changes sought if the prior rule package does not get adopted by the Board and subsequently get approved by the Supreme Court.

PRACTICAL TRAINING OF LAW STUDENTS

Participation of LOS and LLM Students in the PTLS Program

As noted above, the California Supreme Court has ordered the State Bar to consider whether to allow LOS students to participate in the PTLS program. Staff receive steady, though limited numbers of inquiries from LOS students, and students in LLM programs, asking if they can be certified for participation in the PTLS program.

Although LOS students and LLM students are not expressly barred from participation in the PTLS program under the Rules of Court or the State Bar rules, the rules impose requirements that LOS and LLM students cannot meet. Specifically, LOS students cannot meet the requirement that they have been accepted into and be enrolled in the second, third, or fourth year of law school, and are unable to submit the required Declaration of Law School Official. They may also be unable to meet the requirement that they have completed or be enrolled in courses in evidence and civil procedure. LLM students are enrolled in a one-year program, and so similarly would not meet the requirement to be enrolled in a second, third, or fourth year of law school.

Recognizing the value of hands-on experience as part of legal education, the committee determined that LOS and LLM students should be able to avail themselves of the benefits of participation in the PTLS program, and that allowing them to do so would help them to become better lawyers. The committee believes that the changes needed to allow LOS and LLM students to participate in the PTLS program can be made while still maintaining public protection. LOS and LLM students in the PTLS program would be subject to the same restrictions on their activities and requirements for close supervision by the supervising attorney that apply to traditional law students in the PTLS program, ensuring protection of the clients served by those students.

The proposed rule changes would allow LOS and LLM students to participate in the PTLS program and set the requirements for their participation by amending the Rules of Court and State Bar Rules to update terminology that prevents LOS and LLM students from participation, impose equivalent requirements (e.g., to require that an LOS student have completed one year of studies and have passed the First-Year Law Students' Exam and to require that an LLM student have successfully completed one semester or two quarters of the LLM program and be enrolled in a second or subsequent semester or third or subsequent quarter). Additionally, to ensure that the PTLS program enhances, and not replaces study in the LOS, the proposed rules provide that that time spent on activities in the PTLS program shall not count towards the required number of hours of study for an LOS student.

Elimination of Coursework Requirements for PTLS Participants

In evaluating the impact on LOS students of the requirement that to be eligible to become a certified law student, a student must "have successfully completed or be currently enrolled in and attending academic course in evidence and civil procedure," the committee questioned the utility of the requirement altogether.

The requirement is unusual among the various states' law student practice programs. Most states have no specific coursework prerequisites for participation, and in those states with such requirements the most common courses required are professional responsibility and legal ethics. The experience of other states suggests that students who do not meet these coursework requirements would nonetheless be capable of providing competent services to clients through the PTLS program. Indeed, under the existing rules in California, students may begin participation in the PTLS program when they have only just begun their courses in evidence and civil procedure, performing the same kinds of work as the students who have already completed those courses.

Other Changes to the Rules for the PTLS Program

The committee also identified changes needed to ensure that the rules clearly state the requirements for a student's application to the PTLS program and for their continued participation in the program, and recommends the rules be amended to do the following:

- To create new procedures for a student to add a supervising attorney or change their supervising attorney;
- To require that a supervising attorney have practiced law or taught law for the two years before supervising a PTLS student while removing the requirement that they have done so full-time;
- To revise the procedure and timeline for notification of the student when their certification is revoked; and
- To make other technical and conforming changes, including changes to the Schedule of Charges and Deadlines.

A more comprehensive explanation of the rule changes can be found in the agenda item for the October 14, 2022, committee meeting, available here: [PTLS and LOS CBE agenda item](#).

LAW OFFICE STUDY

Updating LOS program requirements to reflect the realities of modern legal practice

The existing rules governing the LOS program reflect an outdated model of the practice of law, requiring, for example, that an LOS student's studies be completed "in a law office or judge's chambers during regular business hours" for a required amount of time. The way attorneys do their work has changed significantly since Rule 4.29 was adopted in 2008, and what once were reasonable requirements now stand as outdated and unnecessary barriers to successful completion of study in the LOS program.

The committee has identified several changes to State Bar Rule 4.29 that will eliminate unnecessary barriers to successful completion of study in the LOS program, including:

- Eliminating the requirement that study be completed during "regular business hours," so that LOS students and their supervisors can work together to craft the study schedule that best meets the needs of both supervisor and student.
- Clarifying that the statutory and rules requirements for study "in a law office or judge's chambers" does not require physical presence in the office or chambers. Working remotely has become a regular practice for many attorneys, as improved technology allows research and writing to be accomplished from any computer with access to the internet. Many types of work that previously required an attorney to be present in-person, such as meetings, depositions, and in some cases even court appearances, can now be done with the attorney and other participants joining by video.
- To ensure that adequate supervision is provided when a student is studying remotely, requiring a supervisor to submit a plan for remote supervision, and, in recognition of the benefits of some in-person contact, requiring that, at least five hours of "direct supervision" be provided in-person for each twelve weeks of study.

Other changes to the rules for the LOS program

The committee has identified a number of additional areas where Rule 4.29 should be amended to improve administration of the program and to ensure that LOS students and their

supervisors have clear direction as to the various requirements for applying to and continuing in the program. The recommended changes include:

- Requiring that the application and supporting documentation be submitted and approved no less than thirty days prior to the applicant beginning study, rather than within thirty days after beginning study, and to provide for a refund of fees if an application is denied;
- Revising and clarifying the requirements for the information to be included in the semi-annual reports and the procedures for submitting these reports;
- Stating that LOS students will not receive credit for time spent in activities in the PTLS program;
- Specifying that failure to submit a semiannual report within one year of beginning study or within one year of submission of the most recently submitted semiannual report will result in the student being placed on suspended status and being required to submit a new application to resume study; and
- Other technical and conforming changes, including changes to the Schedule of Charges and Deadlines.

A more comprehensive explanation of the rule changes can be found in the agenda item for the October 14, 2022, committee meeting, available here: [PTLS and LOS CBE agenda item](#).

FISCAL/PERSONNEL IMPACT

This proposal impacts the Office of Admissions and is anticipated to result in minimal resource savings for the State Bar. Resource savings are anticipated as procedures for processing requests for testing accommodations and applications for determination of moral character are streamlined. Although eliminating some existing barriers to participation in the PTLS and LOS programs may result in a greater number of applications to participate in these programs, the increase in workload is not anticipated to be significant. The changes to the rules will also necessitate changes to AIMS, as well as the State Bar's public website, impacting both the Office of Information Technology and the Office of Strategic Communications & Stakeholder Engagement. Staff have met with both Offices of Communications and Information Technology to ensure that the changes can be made as part of their regular processes for updating the technology and improving the State Bar's outward facing materials.

AMENDMENTS TO RULES OF COURT

Title 9, Division 4, Rule 9.42

AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA

Title 3, Division 1, Chapter 1, Rules 3.2 through 3.10

Title 4, Division 1, Chapter 3, Rule 4.29

Title 4, Division 1, Chapter 7, Rule 4.80 through 4.93

Title 4, Division 1, Chapter 1, rules 4.3, 4.5, 4.6; Division 1, Chapter 4, rules 4.40–4.52

Appendix A, Schedule of Charges and Deadlines

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

- c. 2. Increase the numbers of diverse attorneys in the legal profession through diversity pipeline programs that support aspiring attorneys in graduating from law school and passing the bar exam.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees approves circulating for a 60-day public comment period the changes to the rules regarding testing accommodations as set forth in Attachment A; and it is

FURTHER RESOLVED, that the Board of Trustees approves circulating for a 60-day public comment period the changes to the rules regarding moral character as set forth in Attachments D and E; and it is

FURTHER RESOLVED, that the Board of Trustees approves circulating for a 60-day public comment period the changes to the rules the Practical Training of Law Students program as set forth in Attachments F, G, and H; and it is

FURTHER RESOLVED, that the Board of Trustees approves circulating for a 60-day public comment period the changes to the rules regarding the Law Office Study program as set forth in Attachments I and J; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed amended rules.

ATTACHMENTS LIST

- A. Proposed Amendments to Title 4, Division 1, Chapter 7 of the Rules of the State Bar, pertaining to Testing Accommodations (Redline)
- B. Testing Accommodations Framework
- C. Draft Testing Accommodations Forms

- D.** Proposed Amendments to Title 4 of the Rules of the State Bar, pertaining to Moral Character (Redline)
- E.** Proposed Amendments to Title 4 of the Rules of the State Bar Pertaining to Moral Character, incorporating the Revisions Related to the Elimination of the Five-Year Validity of a Passing Bar Exam Score (Redline)
- F.** Proposed Amendments to Title 9 of the Rules of Court, Rule 9.42 pertaining to Practical Training of Law Students (Redline)
- G.** Proposed Amendments to Title 3 of the Rules of the State Bar, Rules 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.10, and 3.11 pertaining to Practical Training of Law Students (Redline)
- H.** Proposed Amendments to Appendix A of the Rules of the State Bar, pertaining to Practical Training of Law Students (Redline)
- I.** Proposed Amendments to Title 4 of the Rules of the State Bar, Rule 4.29 pertaining to Law Office Study (Redline)
- J.** Proposed Amendments to Appendix A of the Rules of the State Bar, pertaining to Law Office Study (Redline)

TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

DIVISION 1. ADMISSION TO PRACTICE LAW IN CALIFORNIA

Chapter 7. Testing Accommodations

Rule 4.80 Eligibility for testing accommodations

Applicants with disabilities are granted reasonable testing accommodations provided that they ~~are capable of demonstrate ing~~ that they are otherwise eligible to take an examination and, in accordance with these rules, they

- (A) have submitted an approved Application for Registration;
- (B) submit a ~~petition request~~ for testing accommodations on the State Bar's forms with the required documentation;
- (C) establish to the satisfaction of the State Bar the existence of a disability that prevents them from taking an examination under standard testing conditions; that testing accommodations are necessary to address the functional limitations related to their disabilities; and the testing accommodations sought are reasonable and appropriate for their disabilities; and,
- (D) separately apply for the examination for which testing accommodations are requested.

Rule 4.80 adopted effective September 1, 2008; previously amended effective November 14, 2009; amended effective September 1, 2019.

Rule 4.81 Testing accommodations in general

- (A) ~~Petitions Requests~~ for testing accommodations are processed on a case-by-case basis.
- (B) The State Bar makes its best effort to process requests ~~petitions~~ for testing accommodations expeditiously but does not process ~~requests petitions~~ that are incomplete.
- (C) Time limits in testing accommodations rules are solely to expedite the processing of ~~requests petitions~~ and are not jurisdictional. The State Bar may extend them for good cause.
- (D) An examination application fee is not refunded if a request for testing accommodations is denied.

Rule 4.81 adopted effective September 1, 2008; amended effective September 1, 2019.

Rule 4.82 Definitions

These definitions apply to the rules on and ~~requests~~ ~~petitions~~ for testing accommodations.

- (A) A “disability” is a physical or mental impairment that causes functional ~~limitations in~~ one or more ~~of an applicant’s~~ major life activities, and limits an applicant’s ability to demonstrate under standard testing conditions that the applicant possesses the knowledge, skills, and abilities tested on an examination.
- (B) A “physical impairment” is a physiological disorder or condition or an anatomical loss affecting one or more of the body’s systems.
- (C) A “mental impairment” is a mental or psychological disorder such as organic brain syndrome, emotional or mental illness, attention deficit/hyperactivity disorder, or a specific learning disability.
- (D) A “reasonable testing accommodation” is an adjustment to or modification of standard testing conditions that addresses the functional limitations related to an applicant’s disability by modifications to rules, policies, or practices; removal of architectural, communication, or transportation barriers; or provision of auxiliary aids and services, provided that they do not
 - (1) compromise the security or validity of an examination or the integrity ~~or~~ of the examination process;
 - (2) impose an undue burden on the State Bar; or
 - (3) fundamentally alter the nature of an examination or the Committee’s ability to assess through the examination whether the applicant
 - (a) possesses the knowledge, skills, and abilities tested on an examination; and
 - (b) meets the essential eligibility requirements for admission.
- (E) A “qualified professional” is a person who is licensed or otherwise properly credentialed and possesses expertise in the disability for which modifications or accommodations are sought.
- (F) A “disability accommodations expert” is a qualified professional designated by the State Bar to make recommendations regarding an applicant’s testing accommodations request.

Rule 4.82 adopted effective September 1, 2008; amended effective September 1, 2019.

Rule 4.83 Guidelines for testing accommodations

- ~~(A) — The State Bar publishes guidelines for documenting the need for testing accommodations based on learning disabilities and attention deficit/hyperactivity~~

~~disorder, including testing required to establish the existence of the disability and the reasonableness of the accommodations requested.~~

~~(B) — The State Bar may publish guidelines for other disabilities accommodated on past examinations.~~

The State Bar shall adopt and make public guidelines outlining the process for establishing the need for testing accommodations. The guidelines shall provide an explanation on how accommodations on past exams are taken into consideration along with a description of the documentation requirements. The State Bar may post guidelines for granting accommodations for other health-related conditions.

Rule 4.83 adopted effective September 1, 2008; amended effective September 1, 2011 Rule 4.84 When to file a petition for testing accommodations

Rule 4.84 When to submit a request ~~file a petition~~ for testing accommodations

- (A) A request ~~Petition~~ for testing accommodations is not an application for a bar examination. ~~Filing one does not constitute filing the other or initiate its processing.~~ An applicant must separately apply for an examination.
- (B) An applicant is encouraged to submit a request ~~for file a Petition~~ for testing accommodations as far in advance as practicable. Testing accommodations requests are processed in the order received. To allow sufficient processing time, general applicants are encouraged to submit their requests ~~petitions~~ at least by the beginning of their last year of law study and attorney applicants no later than six months prior to the examination they wish to take. If an applicant waits until the final ~~examination~~ application deadline for a particular examination to request ~~petition for~~ testing accommodations, it is possible that processing will not be completed or there will be insufficient time to respond to a request for additional information, or to request or process a request for review ~~applicant will not be able to complete all required or available procedures~~ prior to administration of the examination.
- (C) A ~~Petition Request~~ for testing accommodations must be complete and received ~~receipt must be~~ no later than
 - (1) January 1 for the February California Bar Examination;
 - (2) June 1 for the July California Bar Examination;
 - (3) May 15 for the June First-Year Law Students' Examination; or
 - (4) September 15 for the October First-Year Law Students' Examination.

If a deadline falls on a non-business day, the deadline will be the next business day. Deadlines are not extended or waived for any reason except as permitted in Rule 4.87.

- (D) Depending on the nature of a disability and the date on which a request petition is submitted filed, the State Bar may determine that the changing nature of a disability requires that the applicant submit file a new request petition nearer closer to the examination date or that a decision regarding the request petition be deferred.

Rule 4.84 adopted effective September 1, 2008; amended effective November 14, 2009; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.85 Initial Request Petition for testing accommodations

- (A) An applicant with a qualified disability seeking testing accommodations must submit file a request Petition for Testing Accommodations on the State Bar's Request for Testing Accommodations form.
- (B) A request for testing accommodations is considered complete upon receipt of all required forms and any supporting documentation. A request may be deemed incomplete if the required forms are incomplete or filled out incorrectly, or if the State Bar does not receive documentation sufficient to substantiate an applicant's need for testing accommodations. A request that is incomplete by the deadline shall not be processed for that examination.
- (C) An applicant has thirty days to respond to a request for additional information unless an examination schedule requires a shorter time. If the applicant fails to make a timely response, the request is processed on the basis of information submitted. shall be withdrawn by the State Bar as incomplete.
- (D) In addition to the request Petition for testing accommodations, an qualified applicant seeking testing accommodations must also provide may also be required to submit documentation from one or more qualified professionals, including the required form with the petition the specific specialist verification forms the State Bar determines are appropriate to verify the applicant's disability(ies) and need for testing accommodations.
- ~~(E) If a law school has provided testing accommodations, a qualified applicant must submit the petition with the designated State Bar form, completed by a law school official or legal education supervisor.~~
- ~~(F) If another state has provided accommodations for its bar examination, a qualified applicant must submit the petition with the designated State Bar form, completed by an official responsible for testing accommodations.~~
- (E) If an applicant is requesting the same or equivalent accommodations previously approved by another testing agency entity or another state bar has provided accommodations for its examination, a qualified the applicant may be is required to submit the petition with a copy of the accommodations notice.

~~(F) — A Petition for Testing Accommodations is considered complete only upon receipt of all required forms that have been completed according to instructions. A petition that is incomplete by a final examination application deadline is not processed for that examination.~~

(F) An applicant who requests the same or equivalent accommodations based on prior accommodations approved within the past five years must certify that they are still experiencing the same functional limitations caused by the disabilities for which the accommodations were previously approved.

Rule 4.85 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.86 Subsequent ~~requests~~ ~~petitions~~ for testing accommodations

- (A) Testing accommodations are not automatically extended upon failure of an examination but must be requested for a subsequent examination any time before the examination application deadline.
- (B) An applicant who is permanently disabled may ~~request petition for~~ the same accommodations ~~rather than submit an entirely new petition~~. A request for the same accommodations subsequent petition must be made in accordance with the State Bar's requirements.
- (C) An applicant who has a temporary disability or who seeks different accommodations than those previously granted must ~~submit file~~ a new ~~Petition request~~ for Testing Accommodations by the application final filing deadline if filed in connection with a particular administration of an examination.

Rule 4.86 adopted effective September 1, 2008; previously amended effective November 14, 2009; amended effective September 1, 2019.

Rule 4.87 Emergency ~~requests~~ ~~petitions~~ for testing accommodations

- (A) An applicant who becomes disabled after a final examination application filing deadline may submit a request file a Petition for testing accommodations, which must include the forms required by Rule 4.85, with a request that it be considered as an emergency request. Petition. This rule does not apply to requests for testing accommodations for disabilities that existed before the final deadline for an examination application, whether or not they were diagnosed or a visit to a treating professional could be arranged. Documentation explaining the nature, date, and circumstances of the emergency must be submitted filed with the request. petition.
- (B) The State Bar must receive the request and supporting documentation Receipt of the petition and supporting documentation must be at least ten days before the first day of the examination through the Applicant Portal or by physical delivery to the State Bar

~~during regular business hours. Emergency requests received later than this deadline will not be processed. This rule does not apply to disabilities that existed before the final deadline for an examination application, whether or not they were diagnosed or a visit to a treating professional could be arranged.~~

Rule 4.87 adopted effective September 1, 2008.

Rule 4.88 State Bar response to request ~~Petition~~ for testing accommodations

- (A) An applicant who has ~~submitted filed~~ a ~~Petition request~~ for testing accommodations in accordance with these rules ~~shall be~~ is notified in writing within thirty days of receipt when additional information is required. ~~The request for testing accommodations is deemed incomplete if the applicant fails to provide the additional information requested by the deadlines set forth in Rule 4.84(C), and within sixty days when the petition is granted, granted with modifications, denied, or action is pending.~~
- (B) ~~Within sixty days of a request for testing accommodations having been deemed complete, the State Bar will notify the applicant in writing if the request is granted, granted with modifications, denied, or action is pending. If a complete petition is filed at least six months before the examination for which testing accommodations are sought, the applicant may expect a final determination at least a month before the examination.~~
- (C) ~~With the consent of the petitioner, the State Bar or a consultant may confer with a specialist who has treated the petitioner.~~
- (C) A notice of denial of a ~~request~~ Petition for testing accommodations or a notice of approval with modifications ~~ed grant shall~~ state the reasons for the denial or modifications, ~~and advises the petitioner of any right to appeal.~~ The notice ~~will~~ may include a report from a disability accommodations expert designated by the State Bar explaining why the requested accommodations were modified or denied, and advising the applicant of the right to request a review. ~~an excerpt of a consultant's evaluation.~~

Rule 4.88 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.89 Applicant response to modified grant or denial ~~proposed modification or request for information~~

~~An applicant has thirty days to respond to a request for additional information unless an examination schedule requires a shorter time. If the applicant fails to make a timely response, the request is processed on the basis of information submitted.~~

- (A) An applicant notified that a request for testing accommodations has been denied or approved with modifications may request a review. The request must be submitted no more than ten days after the date of the notice of denial or modified grant. The applicant may submit supporting documentation with the request for review.

- (B) Requests for review filed in connection with a particular administration of an examination must be filed no later than the first business day of the month in which the examination is to be administered. Requests received after that date will be considered in connection with a future administration of the examination.
- (C) After exhausting the review process described in this rule, an applicant may appeal a denial or approval with modifications of testing accommodations to the California Supreme Court in accordance with the California Rules of Court 9.13(d).

Rule 4.89 adopted effective September 1, 2008.

Rule 4.90 ~~Committee~~ Review of denied or modified request petition

- ~~(A) — An applicant notified that a Petition For Testing Accommodations has been denied or granted with modifications may request a review by the Committee. The request must be submitted within ten days of the date of the denial or modified grant or some other reasonable period established by the Committee.~~
- (A) Upon receipt of the request for review submitted pursuant to rule 4.89, the Director of Admissions may reverse the decision and approve the request or refer the decision to a disability accommodations expert designated by the State Bar for analysis of the record and recommendation as to the disposition of the request. The disability accommodations expert shall not have participated in the evaluation of the applicant's initial request for testing accommodations. The analysis shall be de novo based solely on the written record; the applicant shall not be permitted to present oral testimony. Requests for review filed in connection with a particular administration of an examination must be filed no later than the first business day of the month in which the examination is to be administered. Requests received after that date will be considered in connection with future administration of the examination.
- (B) After ~~evaluating~~ reviewing the request for review, written record, and supporting documentation, and the disability accommodations expert's analysis and recommendation, the Director of Admissions may withdraw the prior decision and grant the accommodations requested, modify the prior decision, or affirm the prior decision.
- (C) ~~If~~ The Director of Admissions' decision on a request for review is final and shall not be subject to further review by the State Bar. ~~does not grant the request, the Committee must consider it as soon as practicable. The review must be based on the original petition and supporting documentation provided by the applicant and the Director of Admissions. Oral argument is not permitted. The review must be conducted in closed-session either at a regular meeting or one specially convened. The Committee delegates decision-making authority to the Examinations Subcommittee for all time-sensitive testing accommodation reviews.~~

Rule 4.90 adopted effective September 1, 2008; amended effective September 1, 2019.

Rule 4.91 Confidentiality of Petitions for Testing Accommodations

~~Petitions~~ Requests for testing accommodations, supporting documentation, ~~submitted in support~~ and evaluations of requests are confidential.

Rule 4.91 adopted effective September 1, 2008.

Rule 4.92 False or misleading information in requests ~~Petition~~ for testing accommodations

False or misleading information in a request ~~Petition~~ for testing accommodations is considered in determining an applicant's moral character and may result in a negative determination of moral character.

Rule 4.92 adopted effective September 1, 2008.

Rule 4.93 Committee of Bar Examiners oversight

The Committee of Bar Examiners shall provide oversight to ensure consistent application of standards, processes and to monitor trends in accommodations requests, processing, and decisions.

**State Bar of California
Testing Accommodations Framework¹**

I. Requests for Approval of Prior Testing Accommodation(s)

A. Prior Testing Accommodation(s) Approved for: First Year Law Students' Exam (FYLSX), California Bar Exam (CBX), Legal Specialization Exam (LSX) or Multistate Professional Responsibility Exam (MPRE)

1. Except as specified in I.A.2, the requested accommodation(s), or the equivalent accommodation(s) offered by the State Bar², **shall be granted if**:
 - a. The accommodation(s) were **approved within the past five years**; and
 - b. The request is for the **same (or lesser) accommodation(s)**:
 - i. Most recently approved for the MPRE; or
 - ii. Most recently approved among the following exams: FYLSX, CBX, or LSX; or
 - iii. If the most recent approval of accommodation(s) for the MPRE was based on a past temporary disability: for the most recently approved accommodation(s) for the MPRE (within the past 5 years) for which accommodation(s) were based on a permanent disability; or
 - iv. If the most recent approval of accommodation(s) for the FYLSX, CBX, or LSX was based on a past temporary disability: for the most recently approved accommodation(s) among the FYLSX, CBX, or LSX (within the past 5 years) for which accommodation(s) were based on a permanent disability.
 - c. The applicant provides **proof of the prior approval** of accommodation(s) (for the MPRE only); and
 - d. The prior approval was **not for a limited period of time** (based on a temporary disability) which will have passed by the time of the exam for which the applicant is requesting accommodation(s); and
 - e. The applicant certifies they are **still experiencing the same functional limitation(s)** caused by the disability(-ies) for which the accommodation(s) were approved.
2. Notwithstanding I.A.1, applicants will be required to provide documentation to demonstrate exceptional need (as described in II.A.9 below) if:

¹ This Framework is currently undergoing plain language editing. Upon completion of that editing the framework will be in final status.

² The State Bar does not offer certain types of accommodations approved by other testing entities, such as stop-the-clock breaks. If the applicant was approved for stop-the-clock breaks on the MPRE, but no extra time, the State Bar shall provide extra time in a manner that roughly equates with the extra time provided by stop the clock breaks.

- a. The prior approval of accommodation(s) was for more than 50 percent additional testing time (i.e., time and one-half) and/or a private room; and
- b. The applicant's disability is something other than a severe visual impairment.

B. Prior Testing Accommodation(s) Approved for: A bar exam in another U.S. jurisdiction, LSAT, GRE, GMAT, MCAT, DAT, SAT I, SAT II, ACT, or GED

1. Except as specified in I.B.2, the requested accommodation(s), or the equivalent accommodation(s) offered by the State Bar³, **shall be granted if**:
 - a. The accommodation(s) were approved **within the past five years**; and
 - b. The applicant has **not subsequently taken the FYLSX, CBX, LSX, or MPRE**, or has **not subsequently been approved for, or denied, accommodation(s) for the FYLSX, CBX, and/or MPRE⁴**; and
 - c. The request is for the **same (or lesser) accommodation(s)**:
 - i. Most recently approved among the following exams: a bar exam in another U.S. jurisdiction, LSAT, GRE, GMAT, MCAT, DAT, SAT I, SAT II, ACT, or GED; or
 - ii. If the most recent approval of accommodation(s) for a bar exam in another U.S. jurisdiction, LSAT, GRE, GMAT, MCAT, DAT, SAT I, SAT II, ACT, or GED was based on a past temporary disability: for the most recently approved accommodation(s) among a bar exam in another U.S. jurisdiction, LSAT, GRE, GMAT, MCAT, DAT, SAT I, SAT II, ACT, or GED (within the past 5 years) for which accommodation(s) were based on a permanent disability.
 - d. The applicant provides **proof of the prior approval** of accommodations; and
 - e. The prior approval was **not for a limited period of time** (based on a temporary disability) which will have passed by the time of the exam for which the applicant is requesting accommodation(s); and
 - f. The applicant certifies that they are **still experiencing the same functional limitation(s)** caused by the disability(-ies) for which the accommodation(s) were approved.
2. Notwithstanding I.B.1, applicants will be required to provide documentation to demonstrate exceptional need (as described in II.A.9 below) if:
 - a. The prior approval of accommodation(s) was for more than 50 percent additional testing time (i.e., time and one-half) and/or a private room; and
 - b. The applicant's disability is something other than a severe visual impairment.

C. Greater, Different, Additional, or Exceptional Testing Accommodation(s)

³ See, fn 1, *supra*.

⁴ An exception will be made if accommodation(s) were denied for the FYLSX or CBX in the 5 years immediately preceding the adoption of this framework.

- a. If an applicant requests **greater accommodation(s)** than previously approved for an exam specified in I.A or I.B (e.g., more testing time or breaks):
 - i. The applicant must submit documentation **tailored** to support the greater accommodation(s).
 - ii. The State Bar shall approve the remainder of the request, if any, for the same (or lesser) accommodation(s) previously approved.
 - iii. The State Bar **shall not reevaluate whether the applicant has a covered disability** within the meaning of the ADA.
- b. If an applicant requests **additional or different accommodation(s)** than previously approved for an exam specified in I.A or I.B (e.g., requesting a semi-private room when the prior approval of accommodation(s) was for additional testing time only):
 - i. The applicant must submit documentation **tailored** to support the additional or different accommodation(s).
 - ii. The State Bar shall approve the remainder of the request, if any, for the same (or lesser) accommodation(s) previously approved
 - iii. The State Bar **shall not reevaluate whether the applicant has a covered disability** within the meaning of the ADA.
- c. If an applicant is requesting the same or equivalent accommodation(s) on any exam specified above except for the FYLSX, CBX, or LSX, and the request is for exceptional accommodation(s) of **more than 50% additional testing time and/or a private room**, and the applicant does not have a severe visual impairment:
 - i. The applicant must submit documentation **tailored** to support the request as to their exceptional need for accommodation(s) above and beyond 50% additional testing time and/or a semiprivate room.
 - ii. The State Bar shall approve the remainder of the request, if any, for the same (or lesser) accommodation(s) previously approved.
 - iii. The State Bar **shall not reevaluate whether the applicant has a covered disability** within the meaning of the ADA.
- d. If an applicant is requesting accommodation(s) previously approved for an exam specified in Sections I.A or I.B, but the **same or equivalent accommodation(s) are not offered by the State Bar**, the applicant must submit the documentation required under II.A, below.

D. Application of Same Testing Accommodation(s) Process

Applicants are not permitted to use the process described in I.A. or I.B for the approval of testing accommodation(s) in such a way that results in using approved accommodation(s) from more than five years prior to approve the current request. For example, an applicant was approved for testing accommodations on the MPRE in July 2019; based on that approval, the applicant is approved for testing accommodations on the CBX in July 2023. The applicant then requests approval of the same testing accommodations approved for the July 2023 CBX for the LSX in October 2026. This

would be impermissible, as it is effectively using the accommodations granted in 2019 (more than five years prior) to seek accommodations in 2026. In such instances, the applicant must submit the documentation required under II.A, below.

II. Documentation Requirements

- A. For requests for testing accommodation(s) that do not meet the conditions specified in I.A or I.B:
1. Applicants shall be required to provide documentation that is reasonable, limited, and narrowly tailored to the information needed to determine an applicant's disability-related functional limitation(s), their specific access needs, and how those needs relate to the testing accommodation(s) requested.
 2. The documentation must establish the applicant is a person with a disability (that is, the applicant has a physical or mental impairment that causes functional limitation(s) in a major life activity as compared to most people in the general population), and as a result of that disability, the applicant does not have equal access to the FYLSX, CBX, and/or LSX under standard test conditions.
 3. Applicants and their qualified professional(s) shall have flexibility in the type and source of supporting documentation that may be provided to demonstrate their disability-related functional limitation(s), their specific access needs, and how those needs relate to the testing accommodation(s) requested.
 4. A statement of need shall be provided by the applicant and the applicant's qualified professional(s).
 5. The State Bar shall defer to documentation from a qualified professional who has made an individualized assessment of the candidate that supports the need for the requested testing accommodation(s). Where the State Bar finds that the documentation does not support the need for the requested accommodation(s), the State Bar shall supply an explanation.
 6. The State Bar shall give consideration to documentation of past testing accommodation(s) received in testing situations not covered by Sections I.A and I.B.
 7. The State Bar shall not reject or deny an applicant's request for testing accommodation(s) based solely on the applicant's average or above average IQ score and/or history of academic success.
 8. The State Bar shall not reject or deny an applicant's request for a particular testing accommodation solely because the applicant has no formal history of receiving that testing accommodation.
 9. If the applicant is requesting more than 50% additional testing time and/or a private room, and the applicant does not have a severe visual impairment:
 - a. The applicant and the applicant's qualified professional(s) must provide a reasonable explanation of the applicant's exceptional need.

- b. The explanation from the applicant and qualified professional(s) must include an explanation of why 50% additional testing time and/or a semi-private room are insufficient to provide the applicant with equal access to the FYLSX, CBX, and/or LSX.
- c. All relevant data and information will be considered in determining whether the applicant has established an exceptional need.

III. Approvals with Modifications and Denials

- A. No approval with modifications or denial shall be issued without elevation to the State Bar's disability accommodations expert.
- B. Recommended approvals with modifications and denials by the State Bar's disability accommodations expert shall be reviewed by the head of the Testing Accommodations Program or their designee before being issued.
- C. Any approvals with modifications or denials shall be accompanied by a report from the disability accommodations expert explaining the reason for the modifications or denial.

IV. Request for Review

- A. An applicant may request review of an approval with modifications or denial one time in advance of the exam for which they plan to sit if time permits.
- B. Upon receipt of a request for review, the Director of Admissions shall either reverse the decision and approve the request or refer the request for review to a different disability accommodations expert than the disability accommodations expert who recommended the initial denial or modification.
 - 1. The matter shall be reviewed de novo.
 - 2. The applicant shall be permitted, but not required, to submit additional documentation in support of the request for review.
- C. Recommendations of the reviewing disability accommodations expert shall be reviewed by the Director of Admissions before becoming final.
- D. There is no further right of appeal to the State Bar following this request for review.
- E. Applicants may appeal to the Supreme Court after exhausting the review process described in IV.A – C, above.

V. Committee of Bar Examiners Oversight

- A. The Committee of Bar Examiners shall provide oversight to ensure consistent application of standards and processes and to monitor trends in accommodations requests, processing, and decisions. To carry out this requirement, the Committee shall receive written reports from the State Bar at least two times per year highlighting a random sample of cases in which accommodations were granted, denied, or approved with modifications, including those subject to the new review process.

Note: Arrangements for Other Health-Related Conditions

The State Bar will identify a standard set of accommodations for those with certain temporary health-related conditions for which the individual is unlikely to have a prior recent history of accommodations, and for which accommodation requests tend to be fairly standard. At this time, the State Bar intends to limit this list of other health-related conditions to the following:

- Pregnancy
- Lactation / having to express milk.

Any individual with these health-related conditions, upon submission of a note from a qualified professional confirming that condition will exist at the time of the exam will be able to receive the standard set of accommodations. If the individual requires different or greater accommodations, only then will the individual be required to follow the process for requesting testing accommodations outlined herein.

Testing Accommodations Request Form

Please read the **Testing Accommodations Instructions** before completing this form.

- ☐ Please check here if this Request is *an emergency petition under State Bar Rule 4.87* because this disability arose after the submission deadline had already passed.

Section 1: Background Information

1. Name: _____
2. File Number: _____
3. Please select the exam you are currently requesting testing accommodations for: [Select only one.]
 - ☐ First Year Law Students' Exam (FYLSX): Month: _____ Year: _____
 - ☐ California Bar Exam (CBX): Month: _____ Year: _____
 - ☐ Legal Specialization Exam (LSX): Subject: _____ Year: _____
4. What is the nature of your disability? [Select all that apply.]
 - ☐ Visual impairment
 - ☐ Hearing impairment
 - ☐ Physical impairment
 - ☐ Psychological impairment
 - ☐ Cognitive impairment
 - ☐ Learning Impairment
 - ☐ Other: _____

Section 2: Request for Same Accommodations Received on FYLSX, CBX, and/or MPRE

(If you did not receive testing accommodations on the FYLSX, CBX, or MPRE, skip this Section and proceed to Section 3.)

1. I received testing accommodations within the past five years for the following exams:

[Select all that apply.]

☐ FYLSX

Accommodations approved: _____(month) _____(year)

☐ CBX

Accommodations approved: _____(month) _____(year)

☐ LSX

Accommodations approved: _____(month) _____(year)

☐ Multistate Professional Responsibility Exam (MPRE)

Accommodations approved: _____(month) _____(year)

2. Were any of those testing accommodations approved for a limited time due to a temporary disability?

☐ Yes

☐ FLSX (Approved until: _____)

☐ CBX (Approved until: _____)

☐ LSX (Approved until: _____)

☐ MPRE (Approved until: _____)

☐ No

3. I am requesting the same testing accommodations that were approved within the past five years for the following exam: [Select only one choice.]

- ☐ The most recent FYLSX I registered for or the most recent for which accommodations were approved based on a permanent disability
- ☐ The most recent CBX I registered for or the most recent CBX for which accommodations were approved based on a permanent disability
- ☐ The most recent LSX I registered for or the most recent LSX for which accommodations were approved based on a permanent disability
- ☐ MPRE or the most recent MPRE for which accommodations were approved based on a permanent disability
- ☐ I am requesting different or more accommodations. If you check this box, **please review the Testing Accommodations Instructions**, and proceed to Section 3 or 4.

4. If you checked MPRE for question 3: are the testing accommodations you received on the MPRE the same or equivalent to the testing accommodations the State Bar of California provides? **(See list in the Testing Accommodations Instructions.)**

☐ Yes

☐ No

5. Do you certify that you still have the same disability-related functional limitations that qualified you for accommodations for the test indicated in response to question 3?

☐ Yes

☐ No

6. Are you requesting more than 50 percent additional time (i.e., more than time and one-half) and/or testing in a private room?

☐ Yes (If you checked this box, and your disability is not a severe visual impairment, please review the **Testing Accommodations Instructions** and proceed to section 4.)

☐ No

If you are requesting the same accommodations you received on the MPRE, please attach proof of the accommodations approved.

Based on your answers above, this form may be nearly complete. *Stop here and review the **Testing Accommodations Instructions** for the next step.*

Section 3: Request for Same Testing Accommodations Received on Other Exams

If you did not receive testing accommodations on a bar exam in another U.S. jurisdiction, or on the LSAT, GRE, GMAT, MCAT, DAT, SAT I or II, ACT, or GED, skip this Section and proceed to Section 4.

1. My request for testing accommodations was denied within the past five years for the following exams: [Select all that apply.]

☐ FYLSX

☐ CBX

☐ LSX

☐ MPRE

☐ I did not apply for testing accommodations for any of these exams

2. I sat for the following exams without testing accommodations within the past five years: [Select and complete all that apply.]

☐ FYLSX Month: _____ Year: _____

☐ CBX Month: _____ Year: _____

☐ LSX Subject: _____ Year: _____

☐ MPRE Month: _____ Year: _____

3. I received testing accommodations **within the past five years** for the following: [Select and complete all that apply.]

☐ A bar exam in another U.S. jurisdiction Name of Jurisdiction _____
Accommodations approved: Month: _____ Year: _____

☐ Law School Admission Test (LSAT)
Accommodations approved: Month: _____ Year: _____

☐ Graduate Record Examinations (GRE)
Accommodations approved: Month: _____ Year: _____

☐ Graduate Management Admission Test (GMAT)
Accommodations approved: Month: _____ Year: _____

☐ Medical College Admission Test (MCAT)
Accommodations approved: Month: _____ Year: _____

☐ Dental Admission Test (DAT)
Accommodations approved: Month: _____ Year: _____

☐ SAT I or SAT II
Accommodations approved: Month: _____ Year: _____

☐ American College Testing (ACT)
Accommodations approved: Month: _____ Year: _____

☐ General Educational Development (GED)
Accommodations approved: Month: _____ Year: _____

4. Were any of those testing accommodations approved for a limited time due to a temporary disability?

☐ Yes

☐ Bar Exam in U.S. Jurisdiction (Approved until: _____)

☐ LSAT (Approved until: _____)

- ☐ GRE (Approved until: _____)
- ☐ GMAT (Approved until: _____)
- ☐ MCAT (Approved until: _____)
- ☐ DAT (Approved until: _____)
- ☐ SAT I or SAT II (Approved until: _____)
- ☐ ACT (Approved until: _____)
- ☐ GED (Approved until: _____)
- ☐ No

5. I am requesting the same testing accommodations that were approved within the past five years for the most recent exam identified in question 3 or the same testing accommodations approved most recently based on a permanent disability:

- ☐ Yes
- ☐ No (If you checked this box, **please review the Testing Accommodations Instructions**, and proceed to Section 4.)

6. If you answered YES to Question 5, are those testing accommodations you received the same or equivalent to the testing accommodations the State Bar of California provides?

(See list in the Testing Accommodations Instructions)

- ☐ Yes
- ☐ No

Please attach proof of the accommodations received.

7. If you answered YES to Question 6, do you certify that you still have the same disability-related functional limitations that qualified you for accommodations for the exam referenced in Question 5?

☐ Yes

☐ No

8. Are you requesting more than 50 percent extra time (i.e., more than time and one-half) and/or testing in a private room?

☐ Yes (If you checked this box and your disability is not a severe visual impairment, please review the **Testing Accommodations Instructions** and proceed to section 4)

☐ No

Based on your answers above, this form may be nearly complete. *Stop here and review the **Testing Accommodations Instructions** for the next step.*

Section 4: Testing Accommodations Requested

1. Please select the testing accommodations you are requesting for the essay and written sections (essays and performance test): [Select all that apply.]

☐ 25% more testing time (i.e., time-and-one-quarter)

☐ 50% more testing time (i.e., time-and-one-half)

☐ Assistive technology (please specify): _____

☐ Semi-private room

☐ Seating near a restroom

☐ Large-print font: 18-point font

☐ Large-print font: 24-point font

☐ Wheelchair accessibility (if table, specify height) _____

☐ Other (please specify): _____

2. Please select the testing accommodations you are requesting for the multiple-choice section: [Select all that apply.]

☐ 25% more testing time (i.e., time-and-one-quarter)

☐ 50% more testing time (i.e., time-and-one-half)

☐ Assistive technology (please specify): _____

☐ Semi-private room

☐ Seating near a restroom

☐ Large-print font: 18-point font

☐ Large-print font: 24-point font

☐ Wheelchair accessibility (if table, specify height) _____

☐ Other (please specify): _____

Section 5: Statement of Need

Testing accommodations are available to applicants:

- Who have one or more disability-related functional limitation(s);
- As compared to most people in the general population;

- As the result of one or more disabilities; and
- Who are unable to access a State Bar-administered exam under standard test conditions.

Before you complete this Section, please review the standard test conditions described in the Testing Accommodations Instructions. If you need more space to answer any of the questions below, please attach additional pages.

1. Please provide a reasonable explanation of your disability-related functional limitation(s) as compared to how most people in the general population function in the same area(s).

2. Please provide a reasonable explanation of how your disability-related functional limitation(s) impact your ability to access a State Bar-administered exam under standard test conditions.

3. Please provide a reasonable explanation of why the specific testing accommodations you are requesting are necessary to ensure your access to a State Bar-administered exam.

4. If you are requesting greater than 50 percent more testing time and/or a private room, and don't have a severe visual impairment, please provide a reasonable explanation of why 50 percent more testing time and/or a semi-private room aren't sufficient to allow you to access a State Bar-administered exam. Include all relevant information you want the State Bar to consider in determining whether you have demonstrated an exceptional need.

Section 6: Certification

This form is part of the attorney admissions process. Applicants are responsible for providing complete and accurate information. Applicants who provide false or misleading information to support a testing accommodation request may receive a negative determination of their moral character.

☐ I certify that all information provided on this form is true and correct.

Signature: _____

Date: _____

If you are unable to sign this form, please have someone authorized to sign on your behalf sign and date this form in your presence.

Signature: _____

Date: _____

Qualified Professional Certification Form

For the applicant: Before completing and submitting this form to your Qualified Professional, please read the **Testing Accommodations Instructions** [LINK] to confirm who qualifies as a Qualified Professional.

Section 1: Background Information [To be completed by the applicant.]

1. Applicant Name: _____
2. Applicant File Number: _____
3. Applicant Date of Birth: _____

Section 2: Prior Documentation of Disability [To be completed by the applicant.]

1. I am seeking testing accommodations based on psychological, cognitive, or learning disabilities:

☐ Yes

☐ No
2. If you answered Yes to question 1, were you examined by one or more Qualified Professionals within the past five years about this disability?

☐ Yes

☐ No
3. I am seeking testing accommodations based on a disability that is NOT a psychological, cognitive, or learning disability.

☐ Yes

☐ No
4. If you answered "Yes" to question 3, were you examined by one or more Qualified Professionals after you turned 13 years old for the disability for which you are seeking testing accommodations?

☐ Yes

☐ No

5. I have the following documentation from one or more of the Qualified Professionals that examined me during the time frame identified in Questions 2 and/or 4, above [Please select all that apply. Attach that documentation to this form]:

- ☐ Previous Individualized Education Program (IEP)
- ☐ Previous Section 504 Plan
- ☐ Previous formal plan from a private school
- ☐ Previous formal plan from a workplace
- ☐ Evaluation from a Qualified Professional
- ☐ Other documentation of disability from a Qualified Professional you believe is relevant to your request
- ☐ I do not have any of above documentation.

6. If you have any of the documentation described in question 5: do you certify that you are currently experiencing the same disability-related functional limitation(s) described in one or more of those source documents?

☐ Yes

If you checked more than 1 box in response to question 5, please identify the document(s) to which this "Yes" response applies: _____

☐ No

Qualified Professional Certification Form

Applicant: Please have one or more Qualified Professionals complete Sections 3, 4, and 5 below.

Qualified Professional: Please read the attached **Testing Accommodations Instructions** [link] carefully for help in completing this form and to confirm that you qualify to complete this form. If you need more space to answer any of the questions below, **please attach additional pages**.

Section 3: Current Evidence of Disability

1. Applicant Name: _____
2. Applicant File Number [to be completed by applicant]: _____
3. Applicant Date of Birth: _____
4. Qualified Professional Name: _____
5. Qualified Professional Title: _____
6. Qualified Professional License/Certification No.: _____
7. Qualified Professional Address: _____
8. Please provide a brief statement of your professional qualifications. Include your expertise in the disability(-ies) discussed in this request. (Please attach additional pages if needed)

9. What is the nature of the applicant's disability(-ies) [Check all that apply]:
 - ☐ Visual impairment
 - ☐ Hearing impairment
 - ☐ Physical impairment
 - ☐ Psychological impairment

☐ Cognitive impairment

☐ Learning impairment

☐ Other: _____

10. Have you made an individualized assessment of the applicant?

☐ Yes

☐ No

11. If you answered YES to Question 10, when did you last evaluate the applicant

Section 4: Accommodation(s) Recommended by the Qualified Professional

1. For the **written** portions of a State Bar-administered exam (i.e., essays and performance test), please select the testing accommodation(s) you are recommending that the applicant receive:

☐ 25% more time (i.e., time-and-one-quarter)

☐ 50% more testing time (i.e., time-and-one-half)

☐ Assistive technology (please specify): _____

☐ Semi-private room

☐ Seating near a restroom

☐ Large-print font: 18-point font

☐ Large-print font: 24-point font

☐ Wheelchair accessibility (if table, specify height) _____

☐ Other (please specify): _____

2. For the **multiple-choice** portions of a State Bar-administered exam, please select the testing accommodation(s) you are recommending that the applicant receive:

- ☐ 25% more time (i.e., time-and-one-quarter)
- ☐ 50% more testing time (i.e., time-and-one-half)
- ☐ Assistive technology (please specify): _____
- ☐ Semi-private room
- ☐ Seating near a restroom
- ☐ Large-print font: 18-point font
- ☐ Large-print font: 24-point font
- ☐ Wheelchair accessibility (if table, specify height) _____
- ☐ Other (please specify): _____
- _____
- _____
- _____

Section 5: Statement of Qualified Professional

Testing accommodation(s) are available to applicants:

- Who have one or more functional limitation(s);
- As compared to most people in the general population;
- As the result of one or more disabilities; and
- Are unable to access a State Bar-administered exam under standard test conditions.

Before you complete Section 5, please review the standard test conditions described in the Testing Accommodations Instructions.

Please use this form to provide your written statement on the applicant's need for testing accommodations. If appropriate, attach any relevant supporting documentation.

These relevant documents should verify the applicant's disability-related functional limitations. These documents should also describe the applicant's specific access needs and how those needs relate to the recommended testing accommodations recommended. Examples of this documentation can include the following:

- A relevant history;
- Standardized test data from appropriate evaluation instruments;
- A written statement describing the applicant's disability, impairment, areas of limitation, effects on activities of daily living, and testing accommodation needs.

☐ I have reviewed the standard test conditions. The recommended accommodations identified in Section 4 above are based on an understanding of how the exam would be administered under standard test conditions, in the absence of the recommended accommodation(s).

☐ Yes

☐ No

☐ Please explain the applicant's disability-related functional limitation(s) as compared to how most people in the general population function in the same area(s). For example, discuss barriers to access the applicant routinely encounters. _____

- ☐ Please explain how the applicant's disability-related functional limitation(s) impact the applicant's ability to access a State Bar-administered exam under standard test conditions. For example, what barriers to access would you expect the applicant to face?

- ☐ Please explain why the specific testing accommodation(s) you are recommending are necessary to ensure the applicant's access to and to help reduce specific barriers to a State Bar-administered exam. (Note: Simply naming the diagnosis is not an explanation). _____

- ☐ If you are recommending more than 50 percent extra testing time and/or a private room, and the applicant does not have a severe visual impairment, please provide a reasonable explanation of why 50% additional testing time and/or a semi-private room are not sufficient to provide the applicant with access to a State Bar-administered exam. Include all relevant and information you would like the State Bar to consider in determining whether the applicant has established an exceptional need. _____

☐ I certify that to the best of my knowledge all information provided on this form is true and correct.

Signature of Qualified Professional: _____

Date: _____

DRAFT

TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

Adopted July 2007

DIVISION 1. ADMISSION TO PRACTICE LAW IN CALIFORNIA

Chapter 1. General Provisions

Rule 4.3 Definitions

These definitions apply to the rules in this Division unless otherwise indicated.

- (A) An “American Bar Association Approved Law School” is a law school fully or provisionally approved by the American Bar Association and deemed accredited by the Committee.
- (B) An “attorney applicant” is an applicant who is or has been admitted as an attorney to the practice of law in any jurisdiction.
- (C) The “Attorneys’ Examination” is the California Bar Examination for which attorney applicants may apply, provided they have been admitted to the active practice of law in a United States jurisdiction at least four years immediately prior to the first day of administration of the examination and have been in good standing during that period. The Attorneys’ Examination includes essay questions and performance tests of the General Bar Examination but not its multiple-choice questions.
- (D) A “California accredited law school” is a law school accredited by the Committee but not approved by the American Bar Association.
- (E) The “California Bar Examination” is the examination administered by the Committee that an applicant must pass to be certified to the California Supreme Court as qualified for admission to practice law in California. The California Bar Examination includes the General Bar Examination and the Attorneys’ Examination.
- (F) “The Committee” is the Committee of Bar Examiners of the State Bar of California or, unless otherwise indicated, a subcommittee of two or more of its members ~~whom~~ which the Committee authorizes to act on its behalf.
- (G) “Director of Admissions” or “Director, Admissions” means the Director of the State Bar Office of Admissions, or that person’s designee.
- (H) A “general applicant” is an applicant who has not been admitted as an attorney to the practice of law in any jurisdiction.
- (I) The “General Bar Examination” is the California Bar Examination required of every general applicant. The General Bar Examination consists of multiple-choice questions, essay questions, and performance tests.

- (J) The “First-Year Law Students’ Examination” is the examination that an applicant must pass, unless otherwise exempt.³ It includes questions on contracts, torts, and criminal law.
- (K) An “informal conference” is ~~defined in Rule 4.45, a meeting with an applicant initiated by the State Bar for the purpose of discussing issues relevant to an applicant’s moral character determination.~~
- (L) The “Office of Admissions” (“Admissions”) is the State Bar office authorized by the Board of Trustees and the Committee to administer examinations and otherwise act on their behalf.
- (M) “Receipt” of a document that the State Bar or Committee sends an applicant is:
- (1) calculated ~~from~~ as the date of ~~mailing and is deemed to be electronic transmission or five~~ 5 days from the date of mailing to a California address; ~~ten~~ 10 days from the date of mailing to an address elsewhere in the United States; and ~~twenty~~ 20 days from the date of mailing to an address outside the United States; or
 - (2) when the State Bar or Committee delivers a document physically by personal service or otherwise.
- (N) “Receipt” of a document sent to the State Bar or Committee is when it is physically received at the Office of Admissions or the date of electronic transmission if permitted to be sent electronically.
- (O) An “unaccredited law school” is a correspondence, distance-learning, or fixed-facility law school operating in California that the Committee registers but does not accredit.
- (P) For purposes of calculating law study credit toward meeting the legal education requirements necessary to qualify to take the First-Year Law Students’ Examination and California Bar Examination, a “year” is defined as the law study successfully completed in the time between the same calendar dates for consecutive calendar years, minus one day.

Rule 4.3 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.5 Submissions

- (A) A document filed with the State Bar or Committee pursuant to these rules must be

³ Business & Professions Code § 6060(h).

completed according to instructions; verified or made under penalty of perjury;⁴ and submitted with any required fee.

- (B) A document, which must be complete as defined by the instructions for filing, is deemed filed upon receipt.
- (C) The information obtained by the State Bar as a result of the fingerprinting of an applicant is used to establish identity of the applicant, to determine the moral character of the applicant, and to disclose criminal records of the applicant in California or elsewhere. Any information obtained as a result of fingerprint submission is confidential and for official use of the Committee and the State Bar.
- (D) Information on an examination application that is not required, but is submitted voluntarily by an applicant, including ~~ethnic survey and identification information furnished with applications to take the California Bar Examination demographic data or other identifying information~~, is separated from the applications at initial processing and may not be associated with applicants, their files, or their examination answers during grading unless there is reasonable doubt about the identity of a person taking an examination and the State Bar requires the information to verify identity.

Rule 4.5 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.6 Investigations and Hearings [REPEALED]

~~In conducting an investigation or hearing, the Committee or the State Bar Court may receive evidence; administer oaths and affirmations; and compel by subpoena the attendance of witnesses and the production of documents.~~

Rule 4.6 adopted effective September 1, 2008.

Chapter 4. Moral Character Determination

Rule 4.40 Moral Character Determination

- (A) An applicant must be of good moral character as determined by the State Bar. The applicant has the burden of establishing that ~~he or she is~~ they are of good moral character.
- (B) “Good moral character” includes but is not limited to qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the law, and respect for the rights of others and the judicial process.

Rule 4.40 adopted effective September 1, 2008; amended effective September 1, 2019.

⁴ Code of Civil Procedure § 2015.5.

Rule 4.41 Application for Determination of Moral Character

- (A) ~~An applicant must submit an~~ Application for Determination of Moral Character may be submitted after an Application for Registration has been approved. with required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending or is otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.
- (B) An Application for Determination of Moral Character must be accompanied by fingerprints and the fee set forth in the Schedule of Charges and Deadlines ~~may be submitted any time after filing an Application for Registration but is deemed filed only when the application is complete. The application will be deemed filed when the State Bar has determined it to be complete.~~
- (C) An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending, or otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.

Rule 4.41 adopted effective September 1, 2008; amended effective November 14, 2009; previously amended effective July 22, 2011; amended effective March 9, 2018.

Rule 4.42 Duty to Uppdate Application for Determination of Moral Character

Until ~~admitted to practice law,~~ an applicant has taken the attorney's oath, the applicant who has submitted an Application for Determination of Moral Character has a continuing duty to ~~promptly~~ notify the Office of Admissions, within 30 days, whenever information provided in the application has changed or there is new information relevant to the application. Failure to provide updated or additional information within ~~thirty~~ 30 days after the change or addition to the information originally submitted may be cause for suspension of a positive moral character determination.

Rule 4.42 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.43 Abandonment of Application for Determination of Moral Character

- ~~(A) — An Application for Determination of Moral Character is deemed abandoned and ineligible for a refund of fees if~~
- ~~(1) — it is not complete within sixty days after being initiated; or~~
- ~~(2) — it is complete but the applicant has failed to provide additional information requested by the State Bar within ninety days of the request.~~
- (A) Once an application is deemed incomplete by the State Bar and the State Bar provides

the applicant with an incomplete notice describing the deficiencies, the applicant will have 60 days from the date of the notice to cure the deficiencies. If the applicant fails to cure the deficiencies within 60 days, the application will be deemed abandoned, absent a showing of good cause.

- (B) An application that has been deemed complete and filed will be deemed abandoned if the applicant fails to respond to a request for information or documentation within 90 days of the request, absent a showing of good cause.
- (C) An applicant may request a review by the Committee of the State Bar's decision to deem an application abandoned within 30 days of service of the notice of abandonment.
- (D) ~~A new~~ Once an Application for Determination of Moral Character has been deemed abandoned, the applicant must be submitted a new, complete Application for Determination of Moral Character with the required fee and fingerprints if an application has been abandoned to obtain a moral character determination. The State Bar may retain an abandoned application as part of the applicant's file.

Rule 4.43 adopted effective September 1, 2008; amended effective September 1, 2019.

Rule 4.44 Withdrawal of Application for Determination of Moral Character

- (A) An applicant may withdraw an Application for Determination of Moral Character any time before being notified that the State Bar is unable to make a determination without further inquiry and analysis. An applicant who withdraws an application is ineligible for a refund of fees. The State Bar may retain a withdrawn application as part of the applicant's file.
- ~~(B) — An applicant may withdraw an application filed with the State Bar Court for a hearing on an adverse determination of moral character by filing a request for withdrawal with the Office of Chief Trial Counsel and forwarding a copy to the Office of Admissions.~~

Rule 4.44 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective September 1, 2019.

Rule 4.45 Notice Regarding Status of Application for Determination of Moral Character

- (A) Within 180 days of ~~receiving a completed Application for Determination of Moral Character, the date on which the State Bar deems an application to be complete and filed,~~ the State Bar will ~~notifies an~~ the applicant ~~that its determination of whether the applicant has received a positive moral character determination is positive or that it the application requires further consideration. A positive determination is valid for thirty-six months.~~
- ~~(B) — While an Application for Determination of Moral Character remains pending, a status~~

~~report is issued to the applicant at least every 120 days.~~

(B) If the State Bar requests additional information after the application is deemed complete and filed, Wwithin 120 days of receiving ~~additional~~ the requested information ~~it has requested~~, the State Bar ~~will notify~~ ies the applicant that:

- (1) the applicant is determined to be of good moral character;
- (2) ~~the applicant has not met the burden of establishing good moral character;~~
- (3) the application requires further consideration;
- (4) the applicant ~~is~~ will be invited to an informal conference; or
- (5) the applicant is ~~advised to enter into~~ offered an Agreement of Abeyance with the State Bar.

Rule 4.45 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective September 1, 2019.

Rule 4.46 Informal Conference Regarding Moral Character

- (A) Prior to rendering an adverse determination on a moral character application, the State Bar ~~shall~~ will invite the applicant to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and ~~declining it entails~~ no negative inference will be drawn from an applicant's decision to decline to participate in an informal conference.
- (B) The Committee may establish procedures for an informal conference, ~~with the State Bar and require the State Bar to create~~ which shall include creating a record of it by tape audio recording, video recording, or any other means. The applicant may attend the conference with counsel; ~~make a written or oral statement; and present documentary evidence and will have an opportunity to present information for consideration.~~ Counsel is limited to observation and may not participate.

Rule 4.46 adopted effective September 1, 2008; previously amended effective November 14, 2009; amended effective September 1, 2019.

Rule 4.47.1 Request for Review by the Committee of an Adverse Determination

- (A) An applicant notified of an adverse determination by the State Bar of moral character may request a review by the Committee. The request must be submitted to the Office of Admissions within 30 days of the date of the notice of the State Bar's determination. The applicant may submit supplemental material with the request.
- (B) Within 60 days of receipt of ~~the a~~ request for a review, the Committee will conduct a

review of the record, which may include a review of the transcript or recording of the informal conference. The Committee may request additional information from the applicant or from the State Bar. The Committee State Bar must notify the applicant of ~~its~~ the Committee's final determination within 30 days of its decision.

Rule 4.47.1 adopted effective September 1, 2019.

Rule 4.47 ~~Appeal of Request for Hearing on an~~ Adverse Determination of Moral Character Issued by the Committee

(A) If the Committee issues an adverse determination of moral character, an applicant may file a request for hearing on the determination with the State Bar Court in accordance with the Rules of Procedure of the State Bar ~~on Moral Character Proceedings~~. The request must be ~~filed~~ submitted with the fee set forth in the Schedule of Charges and Deadlines within ~~sixty~~ 60 days of the date of service of the notice of adverse determination.

~~(B) — A copy of the request for hearing must be served on the Office of Admissions and the Office of Chief Trial Counsel. Upon receipt of service, the Committee must promptly transmit all files related to the application to the Office of Chief Trial Counsel.~~

Rule 4.47 adopted effective September 1, 2008; previously amended effective July 24, 2015; amended effective September 1, 2019.

Rule 4.48 Agreement of Abeyance

- (A) The State Bar ~~and an applicant or Committee~~ may suspend processing of an Application for Determination of Moral Character ~~by upon the State Bar or the Committee and an applicant entering into~~ an Agreement of Abeyance:
- (1) when a court has ordered an applicant charged with a crime to be treated, rehabilitated, or otherwise diverted;
 - (2) when a court has suspended the sentence of an applicant convicted of a crime and placed the applicant on probation;
 - (3) when an applicant is actively seeking or obtaining treatment for ~~chemical dependency or drug or alcohol addiction~~ a substance use issue; or
 - (4) ~~if~~ when the State Bar and an applicant otherwise agree.
- (B) An Agreement of Abeyance must be in writing and specify the period and conditions of abeyance. A copy of the agreement must be provided to the applicant.
- (C) Once the abeyance period has concluded or the conditions of abeyance have been satisfied, the State Bar or the Committee will continue processing the application.

Rule 4.48 adopted effective September 1, 2008; amended effective September 1, 2019.

Rule 4.49 New Application Following an Adverse Determination of Moral Character

~~The State Bar may permit a~~An applicant who has received an adverse moral character determination ~~to may file submit~~ another Application for Determination of Moral Character two years from the date of the final determination or at some other time set by the State Bar or the Committee, for good cause shown, at the time of its adverse determination.

Rule 4.49 adopted effective September 1, 2008; previously amended effective July 24, 2015; amended effective September 1, 2019.

Rule 4.50 Suspension of a Positive Determination of Moral Character

- (A) ~~Before certifying an applicant for admission to the practice of law~~ At any time before an applicant has taken the attorney's oath, the State Bar may notify ~~an the~~ applicant that it has suspended a positive ~~determination of~~ moral character determination if it receives information that reasonably calls the applicant's character into question. The notice must specify the grounds for the suspension.
- (B) The application of an applicant whose positive moral character determination has been suspended is processed in accordance with Rule 4.45.
- (C) The State Bar will send an applicant who has received a positive moral character determination and is not yet certified to the California Supreme Court as qualified for admission to practice law in California a questionnaire to complete 18 months after the issuance of the determination. If an applicant fails to respond to the questionnaire within 60 days of the date on which it was sent, the positive determination will be suspended. The positive determination may be reinstated upon receipt of the completed questionnaire.

Rule 4.50 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.51 Validity Period of a Positive Moral Character Determination

A positive ~~determination of~~ moral character determination is valid for ~~thirty six~~ 36 months. ~~An applicant with a positive determination who has not been certified to practice law within this validity period must submit an Application for Extension of Determination of Moral Character.~~

Rule 4.51 adopted effective September 1, 2008.

Rule 4.52 Extension of a Positive Moral Character Determination

- (A) An applicant who has received a positive moral character determination may submit an

Application for Extension of Determination of Moral Character. ~~The application must be filed in the last six 6 months of the initial thirty-six 36-month validity period of a positive moral character determination, with the required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. The application will be deemed filed when the State Bar has determined it to be complete. If the State Bar makes a positive determination before the initial thirty-six months expires, the initial thirty-six months is extended an additional thirty-six months. If the State Bar makes a positive determination after expiration of the initial thirty-six months, an extension of thirty-six months begins at the time of its determination. Failure to submit an Application for Extension of Determination of Moral Character within this time period will result in expiration of the applicant's positive determination.~~

~~(B) An applicant may request a review by the Committee of the State Bar's decision within 30 days of service of the notice of decision.~~

(B) An applicant may submit subsequent Applications for Extension of Determination of Moral Character if needed. If an applicant fails to submit an Application for Extension of Determination of Moral Character prior to the expiration of the positive determination, the applicant must submit a new Application for Determination of Moral Character with the required fees and fingerprints to obtain a moral character determination.

Rule 4.52 adopted effective September 1, 2008; amended effective September 1, 2019.

TITLE 4. ADMISSIONS AND EDUCATIONAL STANDARDS

Adopted July 2007

DIVISION 1. ADMISSION TO PRACTICE LAW IN CALIFORNIA

Chapter 1. General Provisions

Rule 4.3 Definitions

These definitions apply to the rules in this Division unless otherwise indicated.

- (A) An “American Bar Association Approved Law School” is a law school fully or provisionally approved by the American Bar Association and deemed accredited by the Committee.
- (B) An “attorney applicant” is an applicant who is or has been admitted as an attorney to the practice of law in any jurisdiction.
- (C) The “Attorneys’ Examination” is the California Bar Examination for which attorney applicants may apply, provided they have been admitted to the active practice of law in a United States jurisdiction at least four years immediately prior to the first day of administration of the examination and have been in good standing during that period. The Attorneys’ Examination includes essay questions and performance tests of the General Bar Examination but not its multiple-choice questions.
- (D) A “California accredited law school” is a law school accredited by the Committee but not approved by the American Bar Association.
- (E) The “California Bar Examination” is the examination administered by the Committee that an applicant must pass to be certified to the California Supreme Court as qualified for admission to practice law in California. The California Bar Examination includes the General Bar Examination and the Attorneys’ Examination.
- (F) “The Committee” is the Committee of Bar Examiners of the State Bar of California or, unless otherwise indicated, a subcommittee of two or more of its members ~~whom~~ which the Committee authorizes to act on its behalf.
- (G) “Director of Admissions” or “Director, Admissions” means the Director of the State Bar Office of Admissions, or that person’s designee.
- (H) A “general applicant” is an applicant who has not been admitted as an attorney to the practice of law in any jurisdiction.
- (I) The “General Bar Examination” is the California Bar Examination required of every general applicant. The General Bar Examination consists of multiple-choice questions, essay questions, and performance tests.

- (J) The “First-Year Law Students’ Examination” is the examination that an applicant must pass, unless otherwise exempt.³ It includes questions on contracts, torts, and criminal law.
- (K) An “informal conference” is ~~defined in Rule 4.45, a meeting with an applicant initiated by the State Bar for the purpose of discussing issues relevant to an applicant’s moral character determination.~~
- (L) The “Office of Admissions” (“Admissions”) is the State Bar office authorized by the Board of Trustees and the Committee to administer examinations and otherwise act on their behalf.
- (M) “Receipt” of a document that the State Bar or Committee sends an applicant is:
- (1) calculated ~~from~~ as the date of ~~mailing and is deemed to be electronic transmission or five~~ 5 days from the date of mailing to a California address; ~~ten~~ 10 days from the date of mailing to an address elsewhere in the United States; and ~~twenty~~ 20 days from the date of mailing to an address outside the United States; or
 - (2) when the State Bar or Committee delivers a document physically by personal service or otherwise.
- (N) “Receipt” of a document sent to the State Bar or Committee is when it is physically received at the Office of Admissions or the date of electronic transmission if permitted to be sent electronically.
- (O) An “unaccredited law school” is a correspondence, distance-learning, or fixed-facility law school operating in California that the Committee registers but does not accredit.
- (P) For purposes of calculating law study credit toward meeting the legal education requirements necessary to qualify to take the First-Year Law Students’ Examination and California Bar Examination, a “year” is defined as the law study successfully completed in the time between the same calendar dates for consecutive calendar years, minus one day.

Rule 4.3 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.5 Submissions

- (A) A document filed with the State Bar or Committee pursuant to these rules must be

³ Business & Professions Code § 6060(h).

completed according to instructions; verified or made under penalty of perjury;⁴ and submitted with any required fee.

- (B) A document, which must be complete as defined by the instructions for filing, is deemed filed upon receipt.
- (C) The information obtained by the State Bar as a result of the fingerprinting of an applicant is used to establish identity of the applicant, to determine the moral character of the applicant, and to disclose criminal records of the applicant in California or elsewhere. Any information obtained as a result of fingerprint submission is confidential and for official use of the Committee and the State Bar.
- (D) Information on an examination application that is not required, but is submitted voluntarily by an applicant, including ~~ethnic survey and identification information furnished with applications to take the California Bar Examination demographic data or other identifying information~~, is separated from the applications at initial processing and may not be associated with applicants, their files, or their examination answers during grading unless there is reasonable doubt about the identity of a person taking an examination and the State Bar requires the information to verify identity.

Rule 4.5 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.6 Investigations and Hearings [REPEALED]

~~In conducting an investigation or hearing, the Committee or the State Bar Court may receive evidence; administer oaths and affirmations; and compel by subpoena the attendance of witnesses and the production of documents.~~

Rule 4.6 adopted effective September 1, 2008.

Chapter 4. Moral Character Determination

Rule 4.40 Moral Character Determination

- (A) An applicant must be of good moral character as determined by the State Bar. The applicant has the burden of establishing that ~~he or she is~~ they are of good moral character.
- (B) “Good moral character” includes but is not limited to qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the law, and respect for the rights of others and the judicial process.

Rule 4.40 adopted effective September 1, 2008; amended effective September 1, 2019.

⁴ Code of Civil Procedure § 2015.5.

Rule 4.41 Application for Determination of Moral Character

- (A) ~~An applicant must submit an~~ Application for Determination of Moral Character may be submitted after an Application for Registration has been approved. with required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending or is otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.
- (B) An Application for Determination of Moral Character must be accompanied by fingerprints and the fee set forth in the Schedule of Charges and Deadlines ~~may be submitted any time after filing an Application for Registration but is deemed filed only when the application is complete. The application will be deemed filed when the State Bar has determined it to be complete.~~
- (C) An attorney who is suspended for disciplinary reasons or disbarred, has resigned with disciplinary charges pending, or otherwise not in good standing for disciplinary reasons in any jurisdiction may not submit an application.

Rule 4.41 adopted effective September 1, 2008; amended effective November 14, 2009; previously amended effective July 22, 2011; amended effective March 9, 2018.

Rule 4.42 Duty to Uppdate Application for Determination of Moral Character

Until ~~admitted to practice law,~~ an applicant has taken the attorney's oath, the applicant who has submitted an Application for Determination of Moral Character has a continuing duty to ~~promptly~~ notify the Office of Admissions, within 30 days, whenever information provided in the application has changed or there is new information relevant to the application. Failure to provide updated or additional information within ~~thirty~~ 30 days after the change or addition to the information originally submitted may be cause for suspension of a positive moral character determination.

Rule 4.42 adopted effective September 1, 2008; amended effective November 14, 2009.

Rule 4.43 Abandonment of Application for Determination of Moral Character

- ~~(A) — An Application for Determination of Moral Character is deemed abandoned and ineligible for a refund of fees if~~
- ~~(1) — it is not complete within sixty days after being initiated; or~~
- ~~(2) — it is complete but the applicant has failed to provide additional information requested by the State Bar within ninety days of the request.~~
- (A) Once an application is deemed incomplete by the State Bar and the State Bar provides

the applicant with an incomplete notice describing the deficiencies, the applicant will have 60 days from the date of the notice to cure the deficiencies. If the applicant fails to cure the deficiencies within 60 days, the application will be deemed abandoned, absent a showing of good cause.

- (B) An application that has been deemed complete and filed will be deemed abandoned if the applicant fails to respond to a request for information or documentation within 90 days of the request, absent a showing of good cause.
- (C) An applicant may request a review by the Committee of the State Bar's decision to deem an application abandoned within 30 days of service of the notice of abandonment.
- (D) ~~A new~~ Once an Application for Determination of Moral Character has been deemed abandoned, the applicant must be submitted a new, complete Application for Determination of Moral Character with the required fee and fingerprints if an application has been abandoned to obtain a moral character determination. The State Bar may retain an abandoned application as part of the applicant's file.

Rule 4.43 adopted effective September 1, 2008; amended effective September 1, 2019.

Rule 4.44 Withdrawal of Application for Determination of Moral Character

- (A) An applicant may withdraw an Application for Determination of Moral Character any time before being notified that the State Bar is unable to make a determination without further inquiry and analysis. An applicant who withdraws an application is ineligible for a refund of fees. The State Bar may retain a withdrawn application as part of the applicant's file.
- ~~(B) — An applicant may withdraw an application filed with the State Bar Court for a hearing on an adverse determination of moral character by filing a request for withdrawal with the Office of Chief Trial Counsel and forwarding a copy to the Office of Admissions.~~

Rule 4.44 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective September 1, 2019.

Rule 4.45 Notice Regarding Status of Application for Determination of Moral Character

- (A) Within 180 days of ~~receiving a completed Application for Determination of Moral Character, the date on which the State Bar deems an application to be complete and filed,~~ the State Bar will ~~notifies an~~ the applicant ~~that its determination of whether the applicant has received a positive moral character determination is positive or that it the application requires further consideration. A positive determination is valid for thirty-six months.~~
- ~~(B) — While an Application for Determination of Moral Character remains pending, a status~~

~~report is issued to the applicant at least every 120 days.~~

(B) If the State Bar requests additional information after the application is deemed complete and filed, Wwithin 120 days of receiving ~~additional~~ the requested information ~~it has requested~~, the State Bar ~~will notify~~ ies the applicant that:

- (1) the applicant is determined to be of good moral character;
- (2) ~~the applicant has not met the burden of establishing good moral character;~~
- (3) the application requires further consideration;
- (4) the applicant ~~is~~ will be invited to an informal conference; or
- (5) the applicant is ~~advised to enter into~~ offered an Agreement of Abeyance with the State Bar.

Rule 4.45 adopted effective September 1, 2008; previously amended effective November 18, 2016; amended effective September 1, 2019.

Rule 4.46 Informal Conference Regarding Moral Character

- (A) Prior to rendering an adverse determination on a moral character application, the State Bar ~~shall~~ will invite the applicant to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and ~~declining it entails~~ no negative inference will be drawn from an applicant's decision to decline to participate in an informal conference.
- (B) The Committee may establish procedures for an informal conference, ~~with the State Bar and require the State Bar to create~~ which shall include creating a record of it by tape audio recording, video recording, or any other means. The applicant may attend the conference with counsel; ~~make a written or oral statement; and present documentary evidence and will have an opportunity to present information for consideration.~~ Counsel is limited to observation and may not participate.

Rule 4.46 adopted effective September 1, 2008; previously amended effective November 14, 2009; amended effective September 1, 2019.

Rule 4.47.1 Request for Review by the Committee of an Adverse Determination

- (A) An applicant notified of an adverse determination by the State Bar of moral character may request a review by the Committee. The request must be submitted to the Office of Admissions within 30 days of the date of the notice of the State Bar's determination. The applicant may submit supplemental material with the request.
- (B) Within 60 days of receipt of ~~the a~~ request for a review, the Committee will conduct a

review of the record, which may include a review of the transcript or recording of the informal conference. The Committee may request additional information from the applicant or from the State Bar. The Committee State Bar must notify the applicant of ~~its~~ the Committee's final determination within 30 days of its decision.

Rule 4.47.1 adopted effective September 1, 2019.

Rule 4.47 ~~Appeal of Request for Hearing on an~~ Adverse Determination of Moral Character Issued by the Committee

(A) If the Committee issues an adverse determination of moral character, an applicant may file a request for hearing on the determination with the State Bar Court in accordance with the Rules of Procedure of the State Bar ~~on Moral Character Proceedings~~. The request must be ~~filed~~ submitted with the fee set forth in the Schedule of Charges and Deadlines within ~~sixty~~ 60 days of the date of service of the notice of adverse determination.

~~(B) A copy of the request for hearing must be served on the Office of Admissions and the Office of Chief Trial Counsel. Upon receipt of service, the Committee must promptly transmit all files related to the application to the Office of Chief Trial Counsel.~~

Rule 4.47 adopted effective September 1, 2008; previously amended effective July 24, 2015; amended effective September 1, 2019.

Rule 4.48 Agreement of Abeyance

- (A) The State Bar ~~and an applicant or Committee~~ may suspend processing of an Application for Determination of Moral Character ~~by upon the State Bar or the Committee and an applicant entering into~~ an Agreement of Abeyance:
- (1) when a court has ordered an applicant charged with a crime to be treated, rehabilitated, or otherwise diverted;
 - (2) when a court has suspended the sentence of an applicant convicted of a crime and placed the applicant on probation;
 - (3) when an applicant is actively seeking or obtaining treatment for ~~chemical dependency or drug or alcohol addiction~~ a substance use issue; or
 - (4) ~~if~~ when the State Bar and an applicant otherwise agree.
- (B) An Agreement of Abeyance must be in writing and specify the period and conditions of abeyance. A copy of the agreement must be provided to the applicant.
- (C) Once the abeyance period has concluded or the conditions of abeyance have been satisfied, the State Bar or the Committee will continue processing the application.

Rule 4.48 adopted effective September 1, 2008; amended effective September 1, 2019.

Rule 4.49 New Application Following an Adverse Determination of Moral Character

~~The State Bar may permit a~~ An applicant who has received an adverse moral character determination ~~to~~ may file submit another Application for Determination of Moral Character two years from the date of the final determination or at some other time set by the State Bar or the Committee, for good cause shown, at the time of its adverse determination.

Rule 4.49 adopted effective September 1, 2008; previously amended effective July 24, 2015; amended effective September 1, 2019.

Rule 4.50 Suspension of a Positive Determination of Moral Character

- (A) ~~Before certifying an applicant for admission to the practice of law~~ At any time before an applicant has taken the attorney's oath, the State Bar may notify ~~an~~ the applicant that it has suspended a positive ~~determination of~~ moral character determination if it receives information that reasonably calls the applicant's character into question. The notice must specify the grounds for the suspension.
- (B) The application of an applicant whose positive moral character determination has been suspended is processed in accordance with Rule 4.45.
- (C) The State Bar will send an applicant who has received a positive moral character determination and is not yet certified to the California Supreme Court as qualified for admission to practice law in California a questionnaire to complete 18 months after the issuance of the determination. If an applicant fails to respond to the questionnaire within 60 days of the date on which it was sent, the positive determination will be suspended. The positive determination may be reinstated upon receipt of the completed questionnaire.

Rule 4.50 adopted effective September 1, 2008; previously amended effective July 22, 2011; amended effective September 1, 2019.

Rule 4.51 Validity Period of a Positive Moral Character Determination

A positive ~~determination of~~ moral character determination is valid for ~~thirty six~~ 36 months, subject to Rule 4.50(C).

Rule 4.51 adopted effective September 1, 2008.

Rule 4.52 Extension of a Positive Moral Character Determination

- (A) An applicant who has received a positive moral character determination may submit an Application for Extension of Determination of Moral Character. ~~The application must be~~

~~filed~~ in the last ~~six~~ 6 months of the ~~initial thirty-six~~ 36-month validity period of a positive moral character determination, with ~~the~~ required fingerprints and the fee set forth in the Schedule of Charges and Deadlines. The application will be deemed filed when the State Bar has determined it to be complete. If the State Bar makes a positive determination before the initial thirty-six months expires, the initial thirty-six months is extended an additional thirty-six months. If the State Bar makes a positive determination after expiration of the initial thirty-six months, an extension of thirty-six months begins at the time of its determination. Failure to submit an Application for Extension of Determination of Moral Character within this time period will result in expiration of the applicant's positive determination.

~~(B) — An applicant may request a review by the Committee of the State Bar's decision to deny an extension request within 30 days of service of the notice of decision.~~

(B) — An applicant may submit subsequent Applications for Extension of Determination of Moral Character if needed. If an applicant fails to submit an Application for Extension of Determination of Moral Character prior to the expiration of the positive determination, the applicant must submit a new Application for Determination of Moral Character with the required fees and fingerprints to obtain a moral character determination.

(C) An applicant who has been de-certified pursuant to Rule 4.17 must submit an Application for Extension of Determination of Moral Character covering the period since the expiration of the prior positive determination.

Rule 4.52 adopted effective September 1, 2008; amended effective September 1, 2019.

Proposed Amendments to Title 9 of the Rules of Court, Rule 9.42 (Redline)

Rule 9.42 Certified Law Students

(a) Definitions

(1) A "law student" is a student currently enrolled in a juris doctor (J.D.), master of laws (LL.M.) or bachelor of laws (LL.B.) program in a law school accredited by the examining committee, approved by the American Bar Association, or registered with the examining committee; or a student currently studying law in a law office or judge's chambers who has been approved by the State Bar for such study.

~~(1)~~ (2) A "certified law student" is a law student who has a currently effective certificate of registration as a certified law student from the State Bar.

~~(2)~~ (3) A "supervising attorney" is a licensee of the State Bar who agrees to supervise a certified law student under rules established by the State Bar and whose name appears on the application for certification.

(Subd (a) amended effective January 1, 2019; previously amended effective January 1, 2007.)

(b) State Bar certified law student program

The State Bar must establish and administer a program for registering law students under rules adopted by the Board of Trustees of the State Bar.

(Subd (b) amended effective January 1, 2019; previously amended effective January 1, 2007.)

(c) Eligibility for certification

To be eligible to become a certified law student

(1) An applicant who is a student in a J.D. or LL.B. program at a law school must:

(A) Have successfully completed one full year of studies (minimum of 270 hours) at a law school accredited by the American Bar Association or the State Bar of California, or both, or have passed the first year law students' examination; and

~~(2)~~ (B) Have been accepted into, and be enrolled in, the second, third, or fourth year of law school in good academic standing or have graduated from law school, subject to the time period limitations specified in the rules adopted by the Board of Trustees of the State Bar. ~~and~~

~~(3) Have either successfully completed or be currently enrolled in and attending academic courses in evidence and civil procedure.~~

(2) An applicant who is a student in an LL.M. program at a law school must:

(A) have a first degree in law, acceptable to the State Bar, from a law school in a foreign country;

(B) Have successfully completed one semester in the program, or two quarters in a program operating on a quarter system, and be accepted to and enrolled in a second or subsequent semester or third or subsequent quarter, or no longer be enrolled having completed one year of study, subject to the time period limitations specified in the rules adopted by the Board of Trustees of the State Bar.

(3) An applicant who is studying law in a law office or judge's chambers must:

(A) Have successfully completed one year of legal studies in a law school, or through study in a law office or judge's chambers;

(B) Have passed the first year law students' examination; and

(C) Be actively continuing the study of law pursuant to Rule 4.29 of the Rules of the State Bar, under the supervision of the attorney or judge approved by the State Bar to provide supervision or have completed the course of study subject to the time period limitations specified in the rules adopted by the Board of Trustees of the State Bar.

(Subd (c) amended effective January 1, 2019.)

(d) Permitted activities

Subject to all applicable rules, regulations, and statutes, a certified law student may:

(1) Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the certified law student:

(A) Obtains the approval of the supervising attorney to engage in the activities;

(B) Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the certified law student; and

(C) Performs the activities under the general supervision of the supervising attorney;

(2) Appear on behalf of the client in depositions, provided that the certified law student:

(A) Obtains the approval of the supervising attorney to engage in the activity;

(B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney); and

(C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student;

(3) Appear on behalf of the client in any public trial, hearing, arbitration, or proceeding, or before any arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, provided that the certified law student:

(A) Obtains the approval of the supervising attorney to engage in the activity;

(B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney);

(C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting

attorney) approving the performance of such acts by such certified law student or generally by any certified law student; and

(D) As a condition to such appearance, either presents a copy of the consent form to the arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, or files a copy of the consent form in the court case file; and

(4) Appear on behalf of a government agency in the prosecution of criminal actions classified as infractions or other such minor criminal offenses with a maximum penalty or a fine equal to the maximum fine for infractions in California, including any public trial:

(A) Subject to approval by the court, commissioner, referee, hearing officer, or magistrate presiding at such public trial; and

(B) Without the personal appearance of the supervising attorney or any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney, but only if the supervising attorney or the designated attorney has approved in writing the performance of such acts by the certified law student and is immediately available to attend the proceeding.

(Subd (d) amended effective January 1, 2007.)

(e) Failure to comply with program

A certified law student who fails to comply with the requirements of the State Bar certified law student program must have his or her certification withdrawn under rules adopted by the Board of Trustees of the State Bar.

(Subd (e) amended effective January 1, 2019; previously amended effective January 1, 2007.)

(f) Fee and penalty

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

(Subd (g) amended effective January 1, 2007.)

Proposed Amendments to Title 3 of the Rules of the State Bar, Rules 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10 and 3.11 (Redline)

Rule 3.1 Practical Training of Law Students Program (No Change Proposed; Provided for Information Only)

Practical Training of Law Students is a program that allows a supervised law student certified by the State Bar to negotiate and appear on behalf of a client in the limited circumstances permitted by Rule of Court 9.42 and these rules.¹

Rule 3.1, adopted effective July 1, 2010.

Rule 3.2 Eligibility

(A) To be considered for the State Bar program for Practical Training of Law Students a law student must meet the eligibility requirements of Rule of Court 9.42(c).

(B) Other qualifications notwithstanding, a person is ineligible to apply for certification ~~who if~~

(1) they are ~~is~~ licensed to practice law in any U.S. jurisdiction; or

(2) they have previously taken the California Bar Examination; however, a law student who is certified by the State Bar and graduates or completes their studies during the period stated in the Notice of Law Student Certification and then takes the first California Bar Examination for which they are eligible after graduating or completing their studies may participate in the program until the State Bar releases results for that examination as permitted by Rule 3.9 (B).

~~(2) has not taken the first California Bar Examination for which he or she is eligible;~~

Rule 3.2, adopted effective July 1, 2010.

Rule 3.3 Application

(A) To apply to be a certified law student, an ~~eligible~~ applicant must

(1) register as a general applicant for admission to the practice of law in California;²

(2) submit an Application for Practical Training of Law Students Program³ with

¹ Rule of Court 9.42 (a).

² Rule 4.3 (G) defines “general applicant.” Rule 4.16 (B) explains the Application for admissions.

³ See Rule 4.16 (B).

(a) the fee⁴ set forth in the Schedule of Charges and Deadlines;

(b) a current e-mail address not to be disclosed on the State Bar's Web site or otherwise to the public without the applicant's consent;

(c) a Declaration of Law School Official attesting that the law student meets the eligibility requirements of these rules and is qualified to be a certified law student, absent any subsequent notification to the contrary that the official agrees to provide, except that a law student who is studying law in a law office or judge's chambers and is not enrolled in a law school is exempt from this requirement; and

(d) if the law student is studying law in a law office or judge's chambers, a Declaration from the attorney or judge who has been approved to supervise the law student's studies attesting that the law student meets the eligibility requirements of these rules and is qualified to be a certified law student, absent any subsequent notification to the contrary that the attorney or judge agrees to provide; and

~~(d)~~ (e) a Declaration of Supervising Attorney attesting that for a specified period the attorney will supervise the applicant as required by these rules.

(B) An application for the Practical Training of Law Students program is not considered to be complete until all required documentation has been submitted and deemed complete by the State Bar and applicable fees paid. Applications that are submitted incomplete will be deemed abandoned if not brought to completed status within sixty days of the initial submission of the application. No refund shall be issued for an abandoned application.

~~(B)~~ (C) Upon approval of the application, the State Bar issues a "Notice of Law Student Certification" ("notice") stating that the applicant is a certified participant in the program for Practical Training of Law Students for the period stated in the notice.⁵

Rule 3.3, adopted effective July 1, 2010.

Rule 3.4 Change or Addition of Supervising Attorney

(A) A certified law student may request to change the supervising attorney during the period of certification without submitting a new application. To change the supervising attorney the certified law student must:

(1) Submit the request to change supervising attorney with

(a) The fee set forth in the Schedule of Charges and Deadlines; and

(b) A Declaration of Supervising Attorney from the new supervising attorney attesting that for the remainder of the period stated in the Notice of Law

⁴ Rule of Court 9.42 (f).

⁵ See Rule 3.8.

Student Certification the attorney will supervise the applicant as required by these rules.

- (B) A law student may add an additional supervising attorney at the time of initial application, or at any time during the period stated in the Notice of Law Student Certification by submitting a request to add a supervising attorney. For each additional supervising attorney, the law student must submit a Declaration of Supervising Attorney from the added attorney and the fee set forth in the Schedule of Charges and Deadlines.
- (C) A request to change or add a supervising attorney is not considered to be complete until all required documentation has been submitted and deemed complete by the State Bar and applicable fees paid. Requests that are submitted incomplete will be deemed abandoned if not brought to completed status within sixty days of the initial submission of the request. No refund shall be issued for an abandoned request.

Rule ~~3.5~~ 3.4 Permitted activities

- (A) A certified law student may engage only in the activities permitted by Rule of Court 9.42(d) under the conditions prescribed by that rule.
- (B) Nothing in this rule prohibits a certified law student from providing advice or representation that might be provided by anyone who is not a licensee of the State Bar of California.

Rule 3.4, adopted effective July 1, 2010; amended effective January 25, 2019.

Rule ~~3.6~~ 3.5 Duties of certified law student

A certified law student must

- (A) act as a certified law student only during the period stated in the Notice of Law Student Certification;⁶
- (B) at all times comply with Rule of Court 9.42 and these rules;
- (C) maintain a current e-mail address with the State Bar;
- (D) upon ceasing to be eligible for the program, promptly inform the State Bar and cease any activity that a certified law student is permitted to perform; and

⁶ See Rule 3.8.

(E) not claim in any way to be a licensee of the State Bar of California.

Rule 3.5, adopted effective July 1, 2010; amended effective January 25, 2019.

Rule ~~3.7~~ ~~3.6~~ Supervising Attorney

(A) “Supervising Attorney” is an active licensee of the State Bar of California in good standing who agrees to supervise a certified law student as required by these rules.⁷ A licensee who is inactive, suspended, or subject to discipline, or who has resigned or been disbarred may not be a Supervising Attorney. In these rules, “Supervising Attorney” may also refer to a government agency attorney who meets all requirements for a Supervising Attorney and whom the Supervising Attorney delegates to supervise the permitted activities of a certified law student.

(B) A Supervising Attorney must

- (1) be an active licensee of the State Bar of California who has been an active licensee in good standing and has practiced law in California or taught law in a law school as a full-time occupation for at least the two years before supervising a certified law student;
- (2) supervise the permitted activities of a certified law student as specified by Rule 9.42(d);
- (3) personally assume professional responsibility for any activity a certified law student performs pursuant to these rules;
- (4) provide training and counsel that prepares a certified law student to satisfactorily perform an activity permitted by these rules in a manner that best serves the interest of a client;
- (5) read, approve, and sign any document prepared by the certified law student for a client;
- (6) supervise at one time no more than five certified law students or twenty-five if employed full-time to supervise law students in a law school or government training program; and
- (7) promptly notify the State Bar that they ~~he or she~~ no longer meets the requirements of these rules or that their ~~his or her~~ supervision is ending before the period stated in the Notice of Certification.

Rule 3.6, adopted effective July 1, 2010; amended effective January 25, 2019.

Rule ~~3.8~~ ~~3.7~~ Designation as certified law student

⁷ Rule of Court 9.42 (a)(2).

- (A) A certified law student may use the title “Certified Law Student” and no other in connection with activities performed as a certified law student.
- (B) On written materials prepared pursuant to these rules, a certified law student must use the title Certified Law Student with ~~his or her~~ their name and provide the name of ~~his or her~~ their Supervising Attorney.

Rule 3.7, adopted effective July 1, 2010.

Rule 3.9 ~~3.8~~ Duration of certification

- (A) Subject to the exceptions set forth in this rule, a certified law student may perform an activity that complies with these rules for the period stated in the Notice of Law Student Certification and only while the supervising attorney identified in the application supervises the student. ~~A request to change the supervising attorney requires a new application.~~
- (B) A student who graduates from law school, completes their studies in a law office or judge’s chamber, or completes one year of study in a master of laws (LL.M.) program during the period stated in the Notice of Law Student Certification and then takes the first California Bar Examination for which they are ~~he or she is~~ eligible after graduating or completing their studies may participate in the program until the State Bar releases results for that examination.
- (C) Certification terminates before the end of the period stated in the Notice of Law Student Certification if
 - (1) the certified law student no longer meets the eligibility requirements of these rules;
 - (2) in the case of a certified law student who is studying in a law office or judge’s chambers, the student is placed on suspended status for failure to comply with all requirements set forth in Rule 4.29;
 - (3) ~~(2)~~ the certified law student requests that certification terminate on an earlier date;
 - (4) ~~(3)~~ the certified law student fails to take the first California Bar Examination for which ~~he or she is~~ they are eligible, as defined by the State Bar; or
 - (5) ~~(4)~~ the State Bar revokes certification.⁸

Rule 3.8, adopted effective July 1, 2010.

⁸ See Rule 3.9.

Rule ~~3.9~~ 3.10 Revocation of certification

The State Bar may revoke certification for noncompliance with any applicable rule or law.⁹ The State Bar must provide the certified law student a written notice of revocation which will be transmitted by email to the student, the supervising attorney or attorneys, and the law school official, where applicable, at the emails provided in the application to participate in the program. The revocation is effective ~~ten days~~ one day from the date of its transmission.

Rule 3.9, adopted effective July 1, 2010.

Rule ~~3.10~~ 3.11 Request for review of revocation

A certified law student whose certification has been revoked may request review of the revocation. The request must be in writing and received by the State Bar no more than fifteen days from the date of transmission of the notice. Any arguments or evidence in support of the request must be submitted together with the request. Within sixty days of receiving the request, the State Bar must provide the certified law student with a written determination affirming or denying the revocation. The determination constitutes the final action of the State Bar.

Rule 3.10, adopted effective July 1, 2010.

⁹ Rule of Court 9.42 (e).

Schedule of Charges and Deadlines

TITLE 3, DIVISION 1, CHAPTER 1

PRACTICAL TRAINING OF LAW STUDENTS

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
3.3(A)(2)(a)	Application	\$55	Not applicable
3.3(A) <u>3.4</u>	Request to change <u>or add</u> supervising attorney	\$25	Not applicable

Proposed Amendments to Title 4 of the Rules of the State Bar, Rule 4.29 (Redline)

Rule 4.29 Study in a law office or judge's chambers

(A) A person who intends to comply with the legal education requirements of these rules and Section 6060 of the Business and Professions Code by study in a law office or judge's chambers must

- (1) register as a general applicant for admission to the practice of law in California;
- ~~(1)(2)~~ submit the required form application and all required documentation with the fee set forth in the Schedule of Charges and Deadlines within thirty days of no less than thirty days prior to the intended date of beginning study;
- ~~(3)~~ Have their application approved by the State Bar prior to beginning study, with no credit available for hours of study completed before State Bar approval;
- ~~(2)(4)~~ submit semi-annual reports, as required by section (B)(5) below on the Committee's State Bar's form or as otherwise directed by the State Bar, with the fee set forth in the Schedule of Charges and Deadlines within thirty days of completion of each six-month period; and
- ~~(3)(5)~~ have studied law in a law office or judge's chambers during regular business hours for at least eighteen hours each week for a minimum of forty-eight weeks to receive credit for one year of study or for at least eighteen hours a week for a minimum of twenty-four weeks to receive credit for one-half year of study completing each twenty-four weeks of study in no more than twenty-six weeks.

(B) The attorney or judge with whom the applicant is studying must

- (1) be an active licensee of the State Bar of California who has been an active licensee in good standing for a minimum of five consecutive years immediately prior to beginning oversight of the applicant's studies and has been engaged in the active practice of law for that time, or be a judge of a court of record of this state;
- ~~(1)~~ be admitted to the active practice of law in California and be in good standing for a minimum of five years;
- (2) provide the Committee State Bar within thirty days of the applicant's beginning study an outline of a proposed course of instruction for each six month period for the full number of years of study required that he or she they will personally superviseoversee, to be submitted by the applicant with other application materials no less than thirty days prior to the applicant beginning study as required by section (A)(1) above;
- (3) personally directly supervise the applicant at least five hours a week;

(4) examine the applicant at least once a month on study completed the previous month;

(5) report to the ~~Committee~~ State Bar every six months on the ~~Committee's~~ State Bar's form or in any other manner directed by the State Bar, to be submitted by the applicant as required by section (A)(4) above, the number of hours the applicant studied each week ~~during business hours~~ in the law office or chambers; the number of hours devoted to ~~supervision~~ personal oversight of the course of instruction and the number of hours devoted to direct supervision of the student; specific information on the books and other materials studied, such as chapter names, page numbers, and the like; ~~the name of any other applicant supervised~~ and any other information the ~~Committee~~ State Bar may require;

(6) attach to the report copies of the graded monthly examinations for each of the six months of the study period, including questions, answers, and any written feedback or grades, and

~~(6)(7) not personally supervise~~ personally oversee the course of instruction of more than two applicants simultaneously.

(C) Students in the Law Office Study Program are subject to the requirements of Rule 4.32 and will not receive credit for hours of study devoted to repetition of studies previously completed.

(D) Students in the Law Office Study program who participate in the Practical Training of Law Students program will not receive study-hour credit for time spent engaging in activities undertaken as part of the Practical Training for Law Students program.

(E) The hours of study in a law office or judge's chambers required by section (A)(5) can be completed in whole or in part in a physical location outside the law office or judge's chambers at the discretion of the attorney or judge, subject to the requirement of section (F) for a minimum number of hours of direct supervision to be provided in-person. If the attorney or judge permits an applicant to complete the hours of study entirely in a location other than the law office or judge's chambers, the outline of the proposed course of instruction required by section (B)(2) must include a plan for how the attorney or judge will provide adequate supervision for the student without having the student physically present.

(F) For each twelve weeks of study, a minimum of five hours of the direct supervision required under section (B)(3) must be provided through in-person interaction between the attorney or judge and the student with both physically present in the same location. Part or all of the remaining required hours of direct supervision may be provided by the attorney or judge and the student engaging in synchronous interaction using remote video technology. If the attorney or judge intends for some of the hours of direct supervision to be provided using remote video technology, the outline of the proposed course of instruction required by section (B)(2) must state the number of hours of direct supervision proposed to be provided using remote video

technology each week and include a plan for how the attorney or judge will ensure that the direct supervision provided in this manner will result in the same level of engagement as in-person direct supervision.

(G) A student who is studying law in a law office or judge's chambers and who wishes to study under a different attorney or judge must file a new application with the fee set forth in the Schedule of Charges and Deadlines no less than fifteen days prior to beginning study with the new attorney or judge. The application must include a declaration from the new attorney or judge and a new outline of the proposed course of instruction required under section (B)(2). If the student makes this change during a six-month study period, the student must, within thirty days of beginning study with the new attorney or judge, submit a report from the previous attorney or judge on all study completed with that attorney or judge, with the required fee for submission of a semi-annual report. The first report reflecting the study conducted under the new attorney or judge shall cover only the remainder of that initial six-month period.

(H) An application for approval of study in a law office or judge's chambers is not considered to be complete until all required documentation has been submitted and deemed complete by the State Bar and applicable fees paid. Applications that are submitted incomplete will be deemed abandoned if not brought to a completed status within sixty days of the initial submission of the application. No refund shall be issued for an abandoned application.

(I) An applicant whose application to study in a law office or judge's chambers is denied by the State Bar is eligible for a refund of all fees submitted for the application to study law in a law office or judge's chambers.

(J) A semi-annual report required under section (B)(5) that is submitted more than thirty days but no more than sixty days after the completion of a six-month period of study is subject to a late fee as set forth in the Schedule of Charges and Deadlines and will not be accepted without submission of the late fee. A semi-annual report that is submitted more than sixty days after the completion of the six-month period of study will not be accepted and the student will not receive credit for that six-month period.

(K) Failure to submit a semi-annual report within one year of beginning study in a law office or judge's chambers or within one year of submission of the most recent semi-annual report will result in the applicant being moved to suspended status. An applicant who has been placed on suspended status who wishes to resume study, in the same or a different law office or judge's chambers must submit an application to resume study with all required materials and the required fee. A student who resumes study after being placed on suspended status will receive credit for any six-month periods of study deemed completed by the State Bar prior to the suspension.

Schedule of Charges and Deadlines

TITLE 4, DIVISION 1

ADMISSIONS FEES

BAR EXAMINATION-RELATED FEES EFFECTIVE WITH FEBRUARY 2016 ADMINISTRATION

OTHER FEES EFFECTIVE JANUARY 1, 2016

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
4.29 <u>(A)(2)</u>	Intention <u>Application to Study Law in Law Office or Judge's Chambers</u>	\$158	Not applicable
4.29 <u>(A)(4)</u>	Law Office or Judge's Chambers Initial Study and Semi-Annual Report	\$105	Not applicable <u>30 days after completion of six-month study period</u>
<u>4.29 (G)</u>	<u>Change of attorney or judge</u>	<u>\$35</u>	<u>Not applicable</u>
<u>4.29 (J)</u>	<u>Late fee for semi-annual report</u>	<u>\$40</u>	<u>31-60 days after completion of six-month study period</u>
<u>4.29 (K)</u>	<u>Application to Resume Study in a Law Office or Judge's Chambers</u>	<u>\$130</u>	<u>Not applicable</u>