

RULE 15, SECTION 1, SUPREME COURT RULES CONCERNING THE STATE BAR OF MICHIGAN

Amendments through October 8, 2003

Section 1. Character and Fitness Committees.

(1) A standing committee on character and fitness consisting of 18 active members of the bar shall be appointed annually by the president of the State Bar of Michigan, who shall designate its chairperson. District character and fitness committees consisting of active members of the bar in each commissioner election district shall be appointed, and their chairpersons designated, by the State Bar commissioners within the respective districts, subject to approval by the State Bar Board of Commissioners.

(2) The standing committee and the district committees under its supervision shall investigate and make recommendations with respect to the character and fitness of every applicant for admission to the bar by bar examination and, upon request of the Board of Law Examiners, the character and fitness of any other applicant for admission.

(3) The State Bar of Michigan shall assign staff to assist the standing and district committees in the discharge of their duties.

(4) The standing committee and each district committee shall meet at the times and places designated by their respective chairpersons. Five members of the standing committee or 3 members of a district committee shall constitute a quorum. The action of a majority of those present constitutes the action of a committee.

(5) State Bar recommendations concerning the character and fitness of an applicant for admission to the bar shall be transmitted to the Board of Law Examiners in accordance with the following procedure:

(a) An applicant shall be recommended favorably by State Bar staff without referral to committee when investigation of all past conduct discloses no significant adverse factual information.

(b) In all other instances, applicants shall be referred to the appropriate district committee for personal interview unless the chairperson or other member of the standing committee designated by the chairperson determines that any adverse information reflected in the file would under no circumstances justify a committee determination that the applicant does not possess the character and fitness requisite for admission, in which event the application shall be transmitted to the Board of Law Examiners with a favorable recommendation.

(c) District committees shall, under the supervision and direction of the standing committee, investigate the character and fitness (other than scholastic) of every applicant referred to them. They shall do so by informal interview and any additional investigation which to them seems appropriate. District committees shall make a

written report and recommendation to the standing committee concerning each applicant referred to them.

(d) Upon receiving a district committee report and recommendation, the standing committee shall endorse the recommendation, take the recommendation under advisement pending the receipt of additional information that it deems necessary, remand the recommendation to the district committee with instructions for further proceedings, or reject the recommendation and conduct a hearing *de novo*.

(e) If the standing committee endorses a report and recommendation of a district committee that an applicant has the requisite character and fitness for admission to the bar, it shall transmit that recommendation to the Board of Law Examiners.

(f) If the standing committee endorses a report and recommendation of a district committee that an applicant does not have the requisite character and fitness for admission to the bar, it shall furnish the applicant with a copy of the report and recommendation and advise the applicant of the right to a formal hearing before the standing committee provided request therefor is made in writing within 20 days. If the applicant requests a formal hearing within the time permitted, a hearing shall be scheduled before the standing committee. If the applicant does not request a formal hearing before the standing committee within the time permitted, the standing committee shall thereupon transmit the report and recommendation of the district committee to the Board of Law Examiners.

(g) At the conclusion of any hearing conducted by the standing committee it shall transmit its report and recommendation to the Board of Law Examiners.

(6) Each applicant is entitled to be represented by counsel at the applicant's own expense at any stage of character and fitness processing.

(7) Information obtained in the course of processing an application for admission to the bar may not be used for any other purpose or otherwise disclosed without the consent of the applicant or by order of the Supreme Court.

(8) Notwithstanding any prohibition against disclosure in this rule or elsewhere, the committee on character and fitness shall disclose information concerning a bar applicant to the Attorney Grievance Commission during the course of the commission's investigation of a disciplined lawyer's request for reinstatement to the practice of law. Upon receiving a request for character and fitness information and proof that a disciplined lawyer is seeking reinstatement to the practice of law, the committee shall notify the lawyer that the commission has requested the lawyer's confidential file.

The committee then shall disclose to the commission all information relating to the lawyer's bar application. The commission and the grievance administrator shall protect such information, as provided in MCR 9.126(D). The administrator shall submit to a hearing panel, under seal, any information obtained under this rule that the administrator intends to use in a reinstatement proceeding. The hearing panel shall determine whether the information is relevant to the proceeding, and only upon such a determination may the administrator use the information in a public pleading or proceeding.

(9) Any information pertaining to an application for admission to the bar submitted to a district committee, the standing committee, the Board of Law Examiners or the Supreme Court must also be disclosed to the applicant.

(10) A person is absolutely immune from suit for statements and communications transmitted solely to the State Bar staff, the district committee, the standing committee or the Board of Law Examiners, or given in the course of an investigation or proceeding concerning the character and fitness of an applicant for admission to the bar. The State Bar staff, the members of the district and standing committees and the members and staff of the Board of Law Examiners are absolutely immune from suit for conduct arising out of the performance of their duties.

(11) The standing committee has the power to issue subpoenas (including subpoenas *duces tecum*), to take testimony under oath, and to rule on the admissibility of evidence guided, but not strictly bound, by the rules of evidence applicable to civil cases. An applicant is entitled to use the committee's subpoena power to obtain relevant evidence by request submitted to the chairperson of the standing committee.

(12) Formal hearings conducted by the standing committee shall be suitably recorded for the later production of transcripts, if necessary.

(13) An applicant is entitled to a copy of the entire record of proceedings before the standing committee at the applicant's expense.

(14) An applicant is entitled to at least 10 days notice of scheduled district committee interviews and standing committee hearings. The notice shall contain the following information:

- (a) The time and place of the interview or hearing;
- (b) A statement of the conduct which is to be the subject of the interview or hearing;
- (c) The applicant's right to be represented by counsel; and
- (d) A description of the procedures to be followed at the interview or hearing, together with copies of any applicable rules.

(15) An applicant has the burden of proving by clear and convincing evidence that he or she has the current good moral character and general fitness to warrant admission to the bar.

(16) Upon request made no later than 5 days prior to a scheduled interview or hearing, the applicant and State Bar staff may demand of the other that they be furnished with the identity of any witnesses to be produced at the interview or hearing as well as an opportunity for inspecting or copying any documentary evidence to be offered or introduced.

(17) If an application is withdrawn following an adverse recommendation by a district committee or the standing committee, or, if following such an adverse recommendation the applicant fails to appear for further proceedings or takes no further action, the standing committee shall notify the applicant that the application for admission to the bar may not be renewed until the expiration of two years from the date of the adverse recommendation by the district committee or by the standing committee, or such greater period as the committee specifies, up to a maximum period of five years. The notification shall specify the reasons for the imposition of a waiting period that is longer than two years.

(18) An applicant who has been denied character and fitness certification for admission to the bar by the Board of Law Examiners may not reapply for character and fitness certification for a period of two years following the denial or such greater period specified in the decision denying certification, up to a maximum period of five years. The decision shall specify the reasons for the imposition of a waiting period that is longer than two years.

(19) The standing committee may adopt rules of procedure governing the processing and investigation of applications for admission to the bar and proceedings before district committees and the standing committee not inconsistent with these rules.

(20) An applicant is entitled to review by the Board of Law Examiners of any report and recommendation filed with the Board concluding that the applicant does not have the character and fitness requisite for admission.

(21) Every applicant for admission by examination and any other applicant whose application is submitted to the standing committee on character and fitness for evaluation and recommendation shall pay to the State Bar of Michigan a fee of \$225 for the character and fitness investigation authorized by this rule. An additional fee of \$100 shall be required for character and fitness evaluations related to applications for the February examination that are postmarked after November 1, and applications for the July examination that are postmarked after March 1.

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