

Legal Resources on Character and Fitness

When attorneys recall their passage from law student to lawyer, most will recall the grueling experience of the bar exam. For a few, however, the bar exam seemed like a breeze compared to the testing of their character and fitness to practice law.

Unlike many other areas of practice, there are only a few resources available for those within the admission who are seeking guidance on the character and fitness portion of the process. Although few, these resources can help provide some perspective on what can be done in the event the applicant's character is questioned or there are concerns officially expressed about the applicant's ability to practice law.

In Michigan, applicants who seek to practice law in the state courts must concurrently apply for admission to the State Bar of Michigan. For those seeking information about the character and fitness process, an excellent place to start is the State Bar website at <http://www.michbar.org>.

At the website, there are a number of materials available for new attorneys located

within a number of different categories. At the start, applicants should check out the category covering the Bar Exam under the Public Resources section. This section concerns itself with the rules governing admission, including law school attendance and the bar examination (including the essay and Multistate portions).

Included as well, is a notation that all applications are referred to the Character and Fitness Committee of the Bar. The general reasons for the necessity to review the character and fitness of the applicant are set forth within the Professional Standards pages on the website. As set forth within that section:

The lawyer's license proclaims to the public that the holder has been found qualified to practice law in accordance with standards imposed by the court, and that potential clients may therefore entrust their legal problems to the lawyer. The public has no adequate independent means by which to determine the lawyer's trustworthiness, and must rely upon the certification inherent in the license.

The character and fitness investigation process is the method by which the Supreme Court attempts to ensure that an applicant currently

meets minimum standards for admission to the bar. It is proper therefore for a state to require high standards of qualification, as long as the qualifications have a rational connection with the applicant's fitness or capacity to practice law. "Good moral character" entails honesty, respect for the rights of others and for the law, trustworthiness, reliability, and commitment to judicial process and to the efficient administration of justice.

The description of the composition of the Character and Fitness Committee is found under Committees in the General Information section of the website. Included of late on this portion of the website is a section describing the most recent recorded experiences of the Committee for the July 2002 and February 2003 examinations. After a staff investigation is made of the applicants (some 1,400 applied for these two exams), only those cases where "adverse facts" exist will a referral be made to a district committee. Some 130 attorneys volunteered to serve on the nine district committees during that period and interviewed 43 applicants who took the July exam and 35 applicants for the subsequent February exam. Of those where the district committees believe a formal hearing is required, around 40 percent were referred to the Standing Committee on Character and Fitness, composed of 18 regular members and 18 associate members, for formal hearing. Hearings before the Standing Committee are heard de novo.

The State Bar's ethics database has a few items of interest and this can be found in the Professional Standards section of the website. Within informal opinion RI-194, an attorney may not represent an applicant in a character and fitness committee proceeding when another lawyer in the same law firm is a member of either the Standing Committee or any district committee. Under RI-29 (not currently available online), the State Bar has taken an

informal position on the applicant's obligation to report misconduct in law school.

Looking further afield from the Bar's website, there are a few more resources that come into view. As can be expected, the American Bar Association is involved in the publication of the ABA/BNA Lawyer's Manual on Professional Conduct. More information on this publication can be found at <http://www.abanet.org>. In addition to covering the ethical guidelines of practicing attorneys, the publication also addresses admission standards within various jurisdictions.

Online, another website with some detailed information is the National Conference of Law Examiners' website, <http://www.ncbex.org>. The NCLE is responsible for preparing and grading the Multistate Exam and also provides a model application form for licensing agencies to provide to law students. The NBLE's model form sets forth the detailed information and documentation often required of applicants. An interesting commentary lists certain states that require law students to register early in their studies to conduct investigations well before actually taking the bar examination. Although Michigan is not one of those states to require registration, a student within this state should review this list of jurisdictions if a Michigan-based student anticipates seeking admission in another or different jurisdiction.

Perhaps more notably, NBLE also publishes annually "The Comprehensive Guide to Bar Admission Requirements," also available as an Adobe Acrobat file at <http://www.ncbex.org/pubs/pdf/2004CompGuide.pdf>. The guide provides a state-by-state breakdown of law school admission standards as well as the various criteria used by governing agencies in making admission determinations. ◆

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