

CHARACTER AND FITNESS

CHARACTER AND FITNESS STANDARDS AND GUIDELINES

Every Bar Examination, On Motion and UBE Score Transfer applicant has the burden of proving the character and fitness necessary to practice law in Colorado. Attorney Admissions and its staff, on behalf of the Colorado Supreme Court, the Board of Law Examiners, and the Character and Fitness Committee, investigate the character and fitness of each applicant to the bar. The character and fitness qualifications for admission to the Colorado bar are set out in [C.R.C.P. 208](#).

Although the recommendation for admission is based upon an applicant's current fitness, past conduct can be an indicator of an individual's current fitness to practice. There is no single action or incident that will *per se* result in an applicant being denied admission to practice in Colorado. Every applicant is considered individually based upon the applicant's personal history and record. Attorney Admissions will look not only to the nature and seriousness of the conduct and the applicant's participation in the incident when it occurred; it also considers a variety of factors in reaching its final determination of good character and fitness.

Rule 208.1(6) outlines the following relevant conduct which shall be treated as cause for scrutiny of whether the applicant possesses the necessary character and fitness. The foregoing is inclusive of but not limited to:

- (a) Unlawful conduct;
- (b) Academic misconduct;
- (c) Misconduct in employment;
- (d) Acts involving dishonesty, fraud, deceit, or misrepresentation;
- (e) Acts that demonstrate disregard for the rights or welfare of others;
- (f) Abuse of legal process, including the filing of vexatious or frivolous lawsuits or the raising of vexatious or frivolous defenses;
- (g) Neglect of financial responsibilities;
- (h) Neglect of professional responsibilities;
- (i) Violation of a court order, including a child support order;
- (j) Conduct evidencing current mental or emotional instability that may interfere with the ability to practice law;
- (k) Conduct evidencing current drug or alcohol dependence or abuse that may interfere with the ability to practice law;
- (l) Denial of admission to the bar in another jurisdiction on character and fitness grounds;
- (m) Disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction;
- (n) Making false statements, including material omissions, on law school admission applications; or

- (o) Making false statements, including material omissions, on bar applications in this state or any other jurisdiction.

Unlawful Conduct

Attorney Admissions may inquire into arrests even if no conviction resulted. There are many reasons why arrests do not result in convictions, and many of them have no bearing on guilt or innocence. Attorney Admissions is authorized to inquire into all areas of possibly relevant misconduct. The applicant is required to disclose all incidents, and to provide supporting documentation in the form of the arresting agency's report; charging document, complaint, indictment, citation, or information; disposition or sentencing order; and substantiation of successful completion of any sentence(s) imposed. The occurrence of an acquittal or dismissal is relevant, but is not dispositive of the issue. Attorney Admissions does not assume that any arrest was due to guilty conduct on the part of the applicant. The applicant's obligation is to be completely forthright regarding all matters about which Attorney Admissions inquired.

If, at the time of the application, criminal charges are pending against the applicant, Attorney Admissions will hold the application in abeyance until these charges are completely resolved. If a conviction results in probation, deferred judgment/prosecution, suspended sentence, restitution or some other order, Attorney Admissions will not consider the application until the sentence has been served and probation completed. Attorney Admissions will then proceed to investigate the facts and circumstances that led to the criminal charges.

Making a False Statement

Dishonesty in dealings with employers, schools (including applications for admission) and authorities, including Attorney Admissions, is grounds for denial of an application. Giving false information on the application or failing to be entirely forthcoming and completely candid in the application process is a serious error which may have negative consequences for an applicant. With respect to non-disclosure on a law school application, Attorney Admissions will require at a minimum, evidence that the applicant has made full disclosure of the erroneous or omitted information to the law school administration together with the action, if any, taken by the law school.

Neglect of Financial Responsibilities

Attorney Admissions recognizes that mishandling of client funds is a frequent and serious cause for professional discipline. While admission to the bar does not require a perfect credit record, Attorney Admissions is interested in whether applicants have dealt honestly and responsibly with their creditors, and whether they are doing so at the time of application. Responsible dealings generally include, but are not limited to, keeping in contact with the creditor, making payment arrangements, and meeting the terms of those arrangements. If the applicant currently has unpaid collections, judgments, liens, or charged off accounts, in the absence of unusual mitigating

circumstances, Attorney Admissions considers it important that the applicant demonstrate several months of payments as agreed to show a good faith effort to clear the debts. Any arrearage in child support must be paid before an applicant will be certified for admission.

Evidence of Mental Impairment

Evidence of mental impairment, including evidence of impairment due to psychiatric conditions, is one of the factors into which Attorney Admissions must inquire in determining the applicant's fitness to practice law. Attorney Admissions recognizes that the stresses of law school, as well as other life factors, frequently result in applicants seeking psychiatric or psychological counseling. The applicant should not allow the bar application process to deter them from obtaining treatment or counseling when potential benefits might accrue, and Attorney Admissions encourages them to do so. Applicants should be aware that Attorney Admissions looks favorably on applicants' self-recognition of their need for treatment and appropriate utilization of professional services.

Drug or Alcohol Dependency

Evidence of impairment due to drug or alcohol dependence or abuse is a factor that must be considered by Attorney Admissions in determining an applicant's fitness to practice law. The applicant should be prepared to provide treatment records as well as other records of incidents which were associated with any impairment. Attorney Admissions may require applicants to obtain a drug or alcohol evaluation from a licensed professional.

An applicant who has a problem with drugs or alcohol is strongly encouraged to get the counseling or treatment needed as soon as possible. If the applicant has been impaired due to chemical dependency or abuse, the applicant's recognition of the problem and the treatment record(s) will be important positive evidence of rehabilitation regardless of the seriousness of any misconduct which may have arisen from the dependency.

The Colorado Lawyer Assistance Program (COLAP) is a confidential resource available to recent law school students, graduates and licensed attorneys. COLAP may be able to assist an applicant in determining what steps can be taken to assess the current status of a condition or impairment, and if needed, to seek treatment and/or testing. See www.coloradolap.org.

Evidence of Rehabilitation

In making a determination of the character and fitness of an applicant, Attorney Admissions considers the following factors in assigning weight and significance to prior conduct. See *Rule 208.1(7)*. The foregoing is inclusive of but not limited to:

- (a) The applicant's age at the time of the conduct;
- (b) The recency of the conduct;
- (c) The reliability of the information concerning the conduct;

- (d) The seriousness of the conduct;
- (e) The underlying circumstances of the conduct;
- (f) The cumulative effect of the conduct, including its impact on others;
- (g) Documented evidence of rehabilitation;
- (h) Any positive social contributions the applicant has made after the conduct occurred;
- (i) The applicant's candor in the admissions process;
- (j) The materiality of any omissions or misrepresentations; and
- (k) Evidence of mental or emotional instability.

Evidence of rehabilitation is one of the main factors Attorney Admissions uses to determine whether past problems should lead to the denial of an application. Under Rule 208.1(8), an applicant who affirmatively asserts rehabilitation from prior misconduct which bears adversely upon the applicant's character and fitness may provide such evidence by submitting one or more of the following:

- (a) Evidence that the applicant has acknowledged the conduct was wrong and has accepted responsibility for the conduct;
- (b) Evidence of strict compliance with the conditions of any disciplinary, judicial, administrative, or other order, where applicable;
- (c) Evidence of lack of malice toward those whose duty compelled bringing disciplinary, judicial, administrative, or other proceedings against the applicant;
- (d) Evidence of cooperation with the Office of Attorney Admissions investigation;
- (e) Evidence that the applicant intends to conform future conduct to the standard of character and fitness necessary to practice law in Colorado;
- (f) Evidence of restitution of funds or property, where applicable;
- (g) Evidence of positive social contributions through employment, community service, or civic service;
- (h) Evidence that the applicant is not currently engaging in misconduct;
- (i) Evidence of a record of recent conduct that demonstrates that the applicant meets the essential eligibility requirements for the practice of law in Colorado and justifies the trust of clients, adversaries, courts and the public;
- (j) Evidence that the applicant has changed in ways that will reduce the likelihood of future misconduct; and
- (k) Other evidence that supports an assertion of rehabilitation, including medical or psychological testimony or opinion.

Merely showing that an individual is now living as and doing those things that the person should have done throughout life, although necessary to prove rehabilitation, does not prove that the individual has undertaken a useful and constructive place in society. The requirement of a positive action is appropriate for applicants for admission to the bar because service to one's community is an implied obligation of its members.

Attorney Admissions will not consider evidence or statements offered by others in support of the applicant on any issue listed above unless that person has been fully informed of the misconduct before offering the evidence or statement.