

ARE YOU FIT TO BE A LAWYER?

“Membership in the bar is a privilege burdened with conditions... a fair private and professional character is one of them... compliance with that condition is essential at the moment of admission; but it is equally essential afterwards.”

—JUDGE BENJAMIN N. CARDOZO



Law is a challenging discipline that involves the ability to analyze, reason and communicate. The study and practice of law is rigorous and often stressful. However, a law degree can open many doors to a rewarding career in business, practice, government, teaching or public service. Because the practice of law involves a public trust, persons seeking to become lawyers must not only pass rigorous written examinations, they must also satisfy bar authorities that they have the requisite moral character and personal fitness to enter the profession.

THE CHARACTER AND FITNESS REQUIREMENT

APPLICANTS FOR ADMISSION TO THE BAR must show that they possess the personal qualities required to practice law and have the necessary character to justify the trust and confidence that clients, the public and the legal system will place in them. In New York, the Appellate Division Committees on Character and Fitness in each Judicial Department review applicants' past conduct to ensure that they are honest, trustworthy, diligent and reliable. Conduct that raises concern about an applicant's character or fitness may cause the Committees to investigate further. No applicant for admission may be admitted to practice absent a certification from the appropriate Committee that the applicant possesses the necessary character and fitness to practice. Consequently, if you have a history of conduct that may indicate a problem, you should seek further information and assistance from one of the resources listed below, or your school's Student Services Office.

Shortly after the bar examination, the State Board of Bar Examiners sends to the Supreme Court, Appellate Division, in each of the four judicial departments, a list containing the names and

addresses of the applicants from that department who passed the examination. Each department then send forms to each applicant on its list in order to expedite the admission process by permitting the applicants to complete and file the forms prior to receipt of the results of the examination. These forms require applicants to provide extensive information about their personal backgrounds, including employment history and encounters with law enforcement.

CONDUCT THAT MAY BE CAUSE FOR CONCERN

MEMBERS OF CHARACTER AND FITNESS COMMITTEES typically consider the following conduct as cause for further inquiry before making a recommendation to the Appellate Division regarding character and fitness:

- ▶ Unlawful conduct (even conduct that you may consider minor — including speeding or other traffic infractions, underage offenses, alcohol consumption or drug charges, disorderly conduct and other offenses)
- ▶ Academic or employment-related misconduct
- ▶ Acts involving dishonesty, fraud, deceit, or misrepresentation
- ▶ Neglect of financial responsibilities or professional obligations
- ▶ Violation of a court order (child support, restraining orders, or other disobedience of court directives)
- ▶ Conduct evidencing mental or emotional instability
- ▶ Conduct evidencing drug or alcohol abuse or addiction (open bottle, DWI, or underage drinking charges)

These are grounds for further inquiry but do not mean that your application for admission will necessarily be denied. If you have engaged in any conduct of serious concern, you should seek more information on the requirements from the appropriate Appellate Division.

THE IMPORTANCE OF HONEST DISCLOSURE

“Thousands of people in New York’s legal community, including practicing lawyers, judges, and law students, are suffering from the effects of alcohol or substance dependency or from mental health problems. We know that education, as well as early detection, intervention, and treatment, make a huge difference and can avoid tragedy. Fortunately, lawyers, judges and law students have somewhere to turn--lawyer assistance programs.”

— CHIEF JUDGE JONATHAN LIPPMAN

LAW SCHOOLS REQUIRE APPLICANTS TO BE COMPLETELY FORTHCOMING ABOUT THEIR BACKGROUNDS and to disclose behavior that may have a bearing on their qualifications to study law and their character and fitness to become members of the legal profession. Failure to disclose information on a law school application may have serious consequences, including discipline, expulsion, and reporting to bar authorities. Most law schools require verification and ongoing updating of information provided on the law school application. Misrepresentations in a law school application can also be grounds for denial of admission to the bar.

Full disclosure is also required by the Appellate Division Departments and the Committees on Character and Fitness when applying for admission to the bar. Application questions must be answered honestly and completely. Failure to candidly disclose information or any false statement is taken seriously and may result in denial of admission, even if the undisclosed conduct would not necessarily have resulted in denial of admission. Failure to disclose or false statements discovered after admission to practice may result in the revocation of your license to practice law.

SIGNIFICANCE ATTACHED TO PAST BEHAVIOR BY BAR AUTHORITIES

IN NEW YORK, AN APPLICANT’S PRIOR CONDUCT may be assessed in light of the following factors:

- ▶ Applicant’s age at the time of the conduct
- ▶ Recency of the conduct and the reliability of the information concerning the conduct
- ▶ Seriousness of the conduct
- ▶ Cumulative effect of the conduct or information
- ▶ Evidence of rehabilitation
- ▶ Positive social contributions since the conduct
- ▶ Candor in the admissions process
- ▶ Materiality of omissions or misrepresentations

ALCOHOL OR DRUG ABUSE, ADDICTION AND MENTAL HEALTH

THE BAR APPLICATION ASKS ABOUT MENTAL HEALTH, alcohol, drug or other substance abuse conditions and impairments, and gambling addiction. The purpose of these inquiries is to assist the Appellate Division of the Supreme Court and its Committee on Character and Fitness in evaluating the applicant’s current fitness to practice law. This information shall be treated confidentially (see Judiciary Law § 90[10]).

The mere fact of treatment for mental health problems, alcohol, drug or other substance abuse conditions and impairments or gambling addiction is not, in itself, a basis on which an applicant is denied admission. An applicant who has demonstrated personal responsibility and maturity in dealing with mental health, alcohol, drug or other substance abuse conditions and impairments or gambling addiction, including seeking treatment when necessary, may be certified for admission, provided the applicant otherwise demonstrates a current fitness to practice law.

An applicant may be denied admission where the applicant’s ability to function is impaired in a manner relevant to the fitness to practice law, or where the applicant demonstrates a lack of candor by his or her responses. This is consistent with

the public purpose underlying the licensing responsibilities assigned to the Appellate Division. The burden of proving an applicant’s qualification and fitness to practice law is borne by the applicant.

ADVISORY OPINIONS

IN NEW YORK, ANY PERSON WHO IS A MATRICULATED STUDENT IN AN APPROVED LAW SCHOOL, or who has applied for admission to such a law school, and who has previously been convicted of a felony or misdemeanor, or suspended, removed or dismissed from public office or employment, or dishonorably discharged from the armed services of the United States, may petition the Appellate Division of the New York State Supreme Court of the department in which such person resides or is employed full-time, for an advance ruling as to whether such conviction, suspension, removal or dismissal from public office or employment, or dishonorable discharge, would operate to disqualify the petitioner, on character grounds, from being admitted to practice as an attorney and counselor at law in this State.

For more information on advisory opinions, contact your law school’s Admissions or Student Services Office or the Appellate Division Department directly.

CONDITIONAL ADMISSION

IN NEW YORK, THERE IS NO FORMAL PROCESS FOR CONDITIONAL ADMISSION. However, if you are applying for admission elsewhere, you should know that in some states, if the bar admission authorities have concerns about whether an applicant will continue to be fit to practice (for example, in cases of recent treatment), an applicant may be conditionally admitted to practice.

Conditional admission typically requires the applicant to comply with the specified requirements (such as continuing treatment, continued sobriety or credit counseling) for some period of time after conditional admission.

RESOURCES

RULES GOVERNING ADMISSION TO THE BAR VARY BY STATE. If you have questions about bar admission requirements, contact the office of the bar admissions in the state in which you plan to be admitted.

For New York Bar: Visit www.nybarexam.org

For the admission rules of other states: The bar admission officials for each state are listed in the Comprehensive Guide to Bar Admission Requirements, available at the publications tab at www.ncbex.org.

Resources at your law school:

- ▶ Counseling Service
- ▶ Dean of Students or other contact

Confidential resources for chemical abuse or addiction and mental health concerns:

- ▶ New York State Bar Association Lawyer Assistance Program
Director Patricia Spataro
(800) 255-0569 pspataro@nysba.org
- ▶ New York City Bar Association Lawyer Assistance Program
Director Eileen Travis
(212) 302-5787 etravis@nycbar.org

Many local or specialty bar associations, particularly in larger communities, also offer confidential assistance for lawyers and law students with substance abuse or mental health concerns. You need not be a bar association member to take advantage of these free, confidential services. For links to many of these bar associations, see www.nysba.org/lap

Resources regarding career satisfaction, mental and chemical health, balance and other quality of life issues are available on the following websites:

- ▶ www.nysba.org/lap
- ▶ www.nycbar.org/LawyersAssistance/index.htm
- ▶ www.abanet.org/legalservices/colap