

# SUPREME COURT OF LOUISIANA

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## ORDER

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Acting in accordance with Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, and the inherent power of this Court, and considering the recommendations for amendment to the Bar Admission rules that have been suggested by the Committee on Bar Admissions,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

**Part I.** Louisiana Supreme Court Rule XVII, Section 1(D) be and is hereby repealed and re-enacted to read as follows:

(D) Representation of the Committee. The Attorney for Character and Fitness may act as counsel for the Committee relative to any investigative, Commissioner, Court or other proceeding.

**Part II.** Louisiana Supreme Court Rule XVII, Section 1(E) be and is hereby enacted to read as follows:

(E) Conflicts of Interest; Law School Faculty; Bar Review Courses.

Members of the Committee and Assistant Examiners should not have adverse interests, conflicting duties or inconsistent obligations that will in any way interfere with the proper and impartial administration of their duties. No full time member of any law school faculty shall serve as a member of the Committee or as an Assistant Examiner. No member of the adjunct faculty of any law school shall serve as an Examiner or Assistant Examiner for any examination subject that such

person teaches in law school. No person who owns a financial interest in, or who participates in the management of, or who provides instruction or materials for any Bar Review Course shall serve as a member of the Committee or as an Assistant Examiner.

**Part III.** Louisiana Supreme Court Rule XVII, Section 1(F) be and is hereby enacted to read as follows:

(F) Immunity. Without limiting, restricting or waiving any privilege or immunity otherwise available under state or federal law:

(1) Members of the Committee, Assistant Examiners, Equivalency Panel Members, Commissioners, the Attorney for Character and Fitness, and their respective employees, consultants and agents shall be immune from suit for any act or failure to act, if taken or omitted or made in the course of their official duties or reasonably related to their official duties, including, without limitation, any communications made in an official capacity.

(2) Communications to the Court, the Committee or its members, Assistant Examiners, Equivalency Panel Members, Commissioners, the Attorney for Character and Fitness, and their respective employees, consultants or agents, and testimony given regarding an applicant, potential applicant or conditionally admitted lawyer, shall be absolutely privileged, and no lawsuit predicated thereon may be instituted against any person or entity supplying such communication or testimony.

**Part IV.** Louisiana Supreme Court Rule XVII, Section 3(G) be and is hereby amended to read as follows:

**Section 3. Requisites for Admission to the Bar.** Every applicant for admission to the Bar of this state shall meet all of the following requirements:

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- (G) Submit an application for admission to the Bar, request the preparation of a character report in accordance with Section 4 of this Rule, and pay the applicable fees as provided in the Appendix of this Rule.

**Part V.** Louisiana Supreme Court Rule XVII, Section 4, opening paragraph, be and is hereby enacted to read as follows:

**Section 4. The Application Process.** Any person seeking admission to the Louisiana Bar shall apply to the Committee and shall request that the National Conference of Bar Examiners (NCBE) prepare a character report, as more fully described below and in accordance with instructions posted at <http://www.lascba.org>. Bar Admission fees approved by the Court are set forth in the Appendix of this Rule.

**Part VI.** Louisiana Supreme Court Rule XVII, Section 4(C), be and is hereby repealed and re-enacted to read as follows:

- (C) Application for Admission to the Bar: Supplemental Investigation by National Conference of Bar Examiners. An applicant applying for the examination administered in July shall on or before February 1<sup>st</sup> submit a Bar Examination Application and payment of the applicable fees to the Committee on Bar Admissions and a request for the preparation of a character report and payment to the NCBE.

An applicant may apply for the July examination after the February 1<sup>st</sup> deadline, provided the Bar Examination Application and Request for Preparation of a Character Report are received no later than May 15<sup>th</sup>.

Late applicants shall submit a late filing fee to the Committee in addition to all other applicable fees. Under no circumstances will the Committee process an application to take the July examination, and under no circumstances will the Court grant a petition to take the July examination, if the application is received by the Committee after May 15<sup>th</sup>.

An applicant applying for the examination administered in February shall on or before November 1<sup>st</sup> of the year preceding the February bar exam submit a Bar Examination Application along with payment of the applicable fees to the Committee on Bar Admissions and a Request for the Preparation of a Character Report and payment to the NCBE.

An applicant may apply for the February examination after the November 1<sup>st</sup> deadline, provided the Bar Examination Application and Request for Preparation of a Character Report are received no later than December 15<sup>th</sup>. Late applicants shall submit a late filing fee to the Committee in addition to all other applicable fees. Under no circumstances will the Committee process an application to take the February examination, and under no circumstances will the Court grant a petition to take the February examination, if the application is received after December 15<sup>th</sup>.

An applicant who is applying for re-examination in accordance with Section 8 may apply for a waiver of the foregoing provisions requiring a Request for the Preparation of a Character Report by certifying no change in circumstances on a form prescribed by the Committee; however, in no instance shall a waiver be granted more than two years after the date of the applicant's most recent Request for the Preparation of a Character Report. Furthermore, notwithstanding the other

application deadlines set forth above in this Section 4(C), applications for re-examination pursuant to Section 8 will be accepted by the Committee if filed on or before December 15 for the February examination, and on or before May 15 for the July examination. Under no circumstances will the Committee process an application for re-examination, and under no circumstances will the Court grant a petition to re-take the examination, if the application for re-examination is received by the Committee after December 15 for the February examination, or after May 15 for the July examination.

If the applicant has participated in the Law Student Registration Program, the applicant shall submit to the Committee a Bar Examination Application and payment of the applicable fees to the Committee, in accordance with the deadlines established above. The applicant shall also submit a request for a supplemental report on a form prescribed by the NCBE, and payment of the applicable fee to the NCBE, in accordance with the deadlines established above.

No applicant shall be admitted to the practice of law in Louisiana until a final, satisfactory report of investigation has been received from the National Conference of Bar Examiners, and the Committee certifies the applicant's character and fitness to practice law.

**Part VII.** Louisiana Supreme Court Rule XVII, Section 4(D) be and is hereby amended to read as follows:

- (D) Notice of Failure to Meet Requirements. If the Committee determines that the applicant does not meet the requirements of Section 3 of this Rule and that the applicant will not be certified to the Court for admission to the Bar of this state, it shall notify the applicant in writing

of such determination and the reason(s) therefor. The applicant may appeal the Committee's determination under the provisions of Section 9.

**Part VIII.** Louisiana Supreme Court Rule XVII, Section 4(E) be and is hereby repealed and re-enacted to read as follows:

- (E) Request for Accommodation; Americans with Disabilities Act. Any applicant who requests special accommodations for the written examination under the Americans with Disabilities Act shall make such request, in writing, to the Committee on or before November 1<sup>st</sup> for the February Bar examination, or on or before February 1<sup>st</sup> for the July examination and shall thereafter provide promptly to the Committee such supporting or corroborating information as the Committee may request. The Committee shall advise the applicant of its decision not less than thirty (30) days prior to the beginning of the written examination. Information obtained by the Committee in conjunction with a request for testing accommodations may be used by the Committee to carry out any and all of its duties, including its duty to investigate the character and fitness of the applicant.

**Part IX.** Louisiana Supreme Court Rule XVII, Section 4(F) be and is hereby enacted to read as follows:

- (F) Notice of Approval to Sit for the Bar Examination. No less than thirty (30) days prior to the commencement of the written bar examination, the Committee shall notify the applicant whether it has approved the applicant to sit for the written examination. The notice may also provide that the applicant has met all other requirements for admission or that the application is deficient due to the lack of receipt by the

Committee of a Character Report from the NCBE, the continuing investigation of an applicant's character and fitness, the lack of a reported passing MPRE score or any other deficiency which must be addressed in order to meet the requirements for admission.

**Part X.** Louisiana Supreme Court Rule XVII, Section 4(G) be and is hereby enacted to read as follows:

- (G) Candor in the Application Process. Lack of candor during the application process may be independent grounds for a finding of lack of good moral character by the Committee and refusal to certify the applicant to the Court for admission. Such lack of candor, if discovered after admission, may serve as the basis for disciplinary action by the Louisiana Attorney Disciplinary Board. Applicants shall provide complete and candid responses to all inquiries, whether on the Bar Examination Application, the NCBE's Request for the Preparation of a Character Report or Supplemental Report, or as part of any investigation, inquiry or proceeding.

**Part XI.** Louisiana Supreme Court Rule XVII, Section 4(H) be and is hereby enacted to read as follows:

- (H) Duty to Keep Application Current. Until admitted to the Bar, an applicant is under a continuing obligation to keep his or her application current and must update responses whenever there is an addition to or a change to information previously provided to the Committee or to the NCBE. Those updates must be made in writing and must include all relevant documentation.

**Part XII.** Louisiana Supreme Court Rule XVII, Section 4(I) be and is hereby enacted to read as follows:

- (I) Preliminary Approval. In all instances, any indication of approval or certification by the Committee of an applicant for admission to the Bar is preliminary until the applicant has taken the oath of office and been admitted as a member of the Bar. Changes in circumstance, or discovery of previously unknown information, or reconsideration of previously known information, may result in refusal by the Committee to certify an applicant for admission, or in the withdrawal of a previously indicated approval of certification if the applicant has not yet been admitted to the Bar.

**Part XIII.** Louisiana Supreme Court Rule XVII, Section 5(C) be and is hereby repealed and re-enacted to read as follows:

- (C) Panel on Character and Fitness. On behalf of the Committee, character and fitness determinations shall be made by the Panel on Character and Fitness. The Panel shall consist of the Director of Character and Fitness and two other members of the Committee.

**Part XIV.** Louisiana Supreme Court Rule XVII, Section 5(D) be and is hereby repealed and re-enacted to read as follows:

- (D) Good Moral Character and Fitness; Burden of Proof. The applicant bears the burden of proving his or her good moral character and fitness to practice law by clear and convincing evidence.

**Part XV.** Louisiana Supreme Court Rule XVII, Section 5(E) be and is hereby repealed and re-enacted to read as follows:

- (E) Good Moral Character and Fitness; Factors and Considerations. While the Panel on Character and Fitness may consider any factor or circumstance in determining whether or not an applicant possesses the



requisite moral character and fitness to practice law in this state, any of the following should be considered to be a basis for investigation and inquiry before recommending admission:

- (1) Arrests or criminal charges, whether or not resulting in a conviction.
- (2) Any unlawful conduct.
- (3) Making or procuring any false or misleading statement or omission of relevant information including any false or misleading statement or omission during the application process for admission to the Bar of this state or any other state.
- (4) Misconduct in employment.
- (5) Acts involving dishonesty, fraud, deceit or misrepresentation.
- (6) Commission of an act constituting the unauthorized practice of law.
- (7) Violation of the honor code of the applicant's law school or any other academic misconduct, including undergraduate misconduct.
- (8) Membership in an organization which advocates that the United States Government be overthrown by force, if the applicant indicates a present intent that such be done.
- (9) Abuse of process.
- (10) Litigation.
- (11) Neglect of financial responsibilities.

- (12) Neglect of professional obligations.
- (13) Violation of an order of a Court, including child support orders.
- (14) Military misconduct.
- (15) Evidence of mental or emotional instability.
- (16) Evidence of drug or alcohol misuse, abuse or dependency.
- (17) Denial of admission to the Bar in any other jurisdiction on character and/or fitness grounds.
- (18) Disciplinary action by a lawyer disciplinary agency of any jurisdiction.
- (19) Disciplinary action by a disciplinary agency or governing body of a profession or organization of which the applicant is or was a member.
- (20) Conduct of a kind which has been considered by the Court as grounds for suspension or revocation of the privilege to practice law in Louisiana.
- (21) Conviction or a plea of guilty or “no contest” to any misdemeanor or felony, including juvenile proceedings.
- (22) Any other conduct which reflects adversely upon the character or fitness of the applicant.

**Part XVI.** Louisiana Supreme Court Rule XVII, Section 5(F) be and is hereby repealed and re-enacted to read as follows:

(F) Good Moral Character and Fitness; Past Conduct; Rehabilitation. The Panel on Character and Fitness shall consider whether or not the past conduct of the applicant is likely to be repeated in the future and whether the applicant's past conduct evidences the applicant's character and fitness to practice law. If the applicant is found to have engaged in conduct which at that time would have constituted grounds for an unfavorable recommendation, then the applicant must show by clear and convincing evidence that his or her character has been rehabilitated and that such conduct, inclination or instability is unlikely to recur in the future. The mere fact that there has been no repeat of any such conduct, instability or inclination shall not in and of itself be sufficient to constitute rehabilitation or proof of good moral character and fitness.

While the Panel is not limited to the factors it considers or weight it will give to prior incidents reflecting upon an applicant's character or fitness, the following factors are deemed important by the Panel in assigning the weight and significance given to prior conduct:

- (1) The applicant's age at the time of the conduct.
- (2) The amount of time which has elapsed since the occurrence of such conduct.
- (3) The reliability of the information concerning the conduct.
- (4) The seriousness of the conduct.
- (5) The factors underlying the conduct.
- (6) The cumulative effect of the conduct or information.
- (7) The applicant's positive social contributions since the conduct.

- (8) The applicant's candor and cooperation in the admissions process.
- (9) The materiality of any omissions or misrepresentations.
- (10) The evidence of rehabilitation.

**Part XVII.** Louisiana Supreme Court Rule XVII, Section 5(G) be and is hereby repealed and re-enacted to read as follows:

- (G) Investigation. The Panel on Character and Fitness shall make or cause to be made an investigation of the character and fitness of all applicants. The Panel shall have the authority and power to take all steps necessary to investigate any relevant information pertaining to an applicant's character and fitness to practice law including, but not limited to, issuing investigatory subpoenas, obtaining pertinent documentary evidence, directing that an applicant submit to an independent medical, psychiatric or psychological examination and conducting interviews and obtaining sworn statements.

**Part XVIII.** Louisiana Supreme Court Rule XVII, Section 5(H) be and is hereby enacted to read as follows:

- (H) Factors Not Considered. In determining an applicant's character and fitness to practice law in this state, the Panel shall not consider factors which do not directly bear a reasonable relationship to the practice of law, including, but not limited to, the following impermissible factors:
  - (1) The age, sex, race, color, national origin, religion, or sexual orientation of the applicant; or

- (2) A physical disability of the applicant that does not prevent the applicant from performing the essential functions of an attorney.

**Part XIX.** Louisiana Supreme Court Rule XVII, Section 5(I) be and is hereby enacted to read as follows:

- (I) Cooperation. An applicant whose character and fitness is under investigation shall cooperate with the investigation. An applicant who fails to cooperate in the investigation may be denied admission due to his or her lack of cooperation.

**Part XX.** Louisiana Supreme Court Rule XVII, Section 5(J) be and is hereby enacted to read as follows:

- (J) Communications with the Committee. In all communications by applicants with the Committee or its staff, applicants shall be courteous and respectful. Discourteous or disrespectful behavior may be considered by the Panel in its investigation of the character and fitness of the applicant.

**Part XXI.** Louisiana Supreme Court Rule XVII, Section 5(K) be and is hereby enacted to read as follows:

- (K) Notice of Failure to Meet Requirements. If the Panel determines that the applicant does not possess the requisite good moral character and fitness to practice law in the state and that the applicant will not be certified to the Court for admission to the Bar, it shall notify the applicant in writing of such determination and the reason(s) therefor. The Notice of Failure to Meet Requirements shall be served upon the applicant as described in Section 9 of this Rule.

**Part XXII.** Louisiana Supreme Court Rule XVII, Section 5(L) be and is hereby enacted to read as follows:

- (L) Petition to the Court. Any applicant aggrieved by the determination of the Panel may petition the Louisiana Supreme Court within thirty (30) days of the date of the Notification of Failure to Meet Requirements as described in Section 9 of this Rule.

**Part XXIII.** Louisiana Supreme Court Rule XVII, Section 5(M) be and is hereby enacted to read as follows:

- (M) Conditional Admission. The Panel, with the consent of the applicant, may recommend to the Court that the applicant be admitted on a conditional basis.

- (1) Circumstances Warranting Conditional Admission. An applicant whose record shows conduct that may otherwise warrant denial due to present or past substance misuse, abuse or dependency, physical, mental or emotional disability or instability, or neglect of financial responsibilities, may consent to be admitted subject to certain terms and conditions set forth in a conditional admission consent agreement. Only an applicant whose record of conduct evidences a commitment to rehabilitation and an ability to meet the essential eligibility requirements of the practice of law may be considered for conditional admission.

- (2) Consent Agreement. The consent agreement shall set forth the terms of conditional admission, be approved by the Panel and be signed by the Director of Character and Fitness and by the applicant. In confecting the consent agreement, the Director of

Character and Fitness may confer with the Office of Disciplinary Counsel to create appropriate terms, conditions and monitoring criteria.

- (3) Terms of Consent Agreement. The consent agreement shall contain specific conditions of admission to be fulfilled at the applicant's expense, including but not limited to, requiring alcohol or drug treatment, medical care, psychological or psychiatric care, random chemical screening, professional office practice or management counseling, practice supervision, payment plans and debt management counseling, participation in the Lawyer's Assistance Program, and/or professional audits or reports, and in all cases, the assignment of a probation monitor. By consenting to conditional admission, the applicant waives any confidentiality pertaining to the matters which are the subject of the consent agreement unless the applicant seeks and is granted a protective order by the Court.
- (4) Joint Petition. The Director of Character and Fitness and the applicant shall jointly file with the Court a Petition Seeking Conditional Admission, attaching the consent agreement.
- (5) Court Action Required. No conditional admission shall be effective unless and until approved by the Court. The Court may in its discretion, approve, modify or reject the conditional admission or remand the conditional admission to the Panel for further action as the Court instructs, or appoint a Commissioner to take evidence and make a recommendation to the Court. Should the Court appoint a Commissioner, the procedure shall conform with the procedures set forth in Section 9.

- (6) Monitoring of Consent Agreement by Office of Disciplinary Counsel. If the Court approves the conditional admission, the conditionally admitted lawyer's compliance with the terms of the consent agreement shall be monitored by a probation monitor assigned by the ODC. Cooperation with the probation monitor is required and failure of the conditionally admitted lawyer to cooperate may be grounds for the revocation of the conditional admission.
- (7) Failure to Fulfill the Conditional Terms. Failure to fulfill the terms of the consent agreement may result in the suspension or revocation of the conditional admission or such other action as is appropriate under the Louisiana Rules of Professional Conduct and Louisiana Supreme Court Rule XIX.

**Part XXIV.** Louisiana Supreme Court Rule XVII, Section 5(N) be and is hereby enacted to read as follows:

- (N) Probation Imposed by the Court. Regardless of any recommendation made by the Panel, in any matter in which the Court deems it appropriate, the Court may admit an applicant on a conditional basis subject to a probationary period.

**Part XXV.** Louisiana Supreme Court Rule XVII, Section 8(E) be and is hereby enacted to read as follows:

- (E) Cheating on the Written Examination. In the event the Court determines that an applicant cheated, aided or assisted another applicant in cheating on the written examination, or attempts to cheat or aid or assist another in cheating, the applicant shall fail the examination and the Court may permanently prohibit the applicant from reapplying. If



the applicant has already been admitted, the Court may order that disciplinary proceedings under La. S. Ct. Rule XIX be commenced.

**Part XXVI.** The title of Louisiana Supreme Court Rule XVII, Section 9 be and is hereby amended to read as follows:

**Section 9. Failure to Meet Requirements; Review.**

**Part XXVII.** Louisiana Supreme Court Rule XVII, Section 9, opening paragraph, be and is hereby repealed.

**Part XXVIII.** Louisiana Supreme Court Rule XVII, Section 9(A) be and is hereby repealed and re-enacted to read as follows:

- (A) Failure to Meet Requirements: Notice. In every instance in which the Committee determines that it will not certify an applicant for admission due to the applicant's failure to meet the requisites for admission as described in Section 3, the Committee shall notify the applicant in writing of such determination and the reasons therefor. Service of the Notice of Failure to Meet Requirements shall be made by mailing the notice to the applicant at the address provided in his or her application for admission to the Bar or such address as has been furnished by the applicant in writing to the Committee. The notice shall contain a certificate stating the date of mailing. As a courtesy to the applicant, and in addition to notice by mail, the Committee may also notify the applicant by e-mail, return receipt requested, at the e-mail address provided to the Committee by the applicant in his or her application for admission.

**Part XXIX.** Louisiana Supreme Court Rule XVII, Section 9(B) be and is hereby repealed and re-enacted to read as follows:

- (B) Review by the Court. An applicant who is aggrieved by the determination of the Committee may file a Petition for Admission to the Bar with the Court within thirty (30) days from the date of mailing of the notice. Failure to seek review within that thirty day period shall have the same effect as denial of admission by the Court under Subsection (D)(13). No appeal lies from an applicant's failure to satisfactorily compete the written examination as described in Sections 7 and 8 of this Rule, and the determination of the Committee relative to an applicant's test scores is final.

**Part XXX.** Louisiana Supreme Court Rule XVII, Section 9(C) be and is hereby enacted to read as follows:

- (C) Service on Committee. A copy of the Petition for Admission shall be served on the Committee through its Chair. Service shall be accomplished by certified mail, return receipt requested. Proof of service shall be filed in the record.

**Part XXXI.** Louisiana Supreme Court Rule XVII, Section 9(D) be and is hereby enacted to read as follows:

- (D) Procedure in Supreme Court. The Court may, in its discretion, without taking further evidence, approve, modify or reject the Committee's determination, remand to the Committee for further action as the Court instructs, or appoint a Commissioner to take evidence and report to the Court. The Commissioner shall include in the report a recommendation as to whether the applicant has met the requirements for admission to the Bar. If the petition is filed prior to the applicant sitting for the written examination, the Court may allow the applicant to sit for the written examination and upon satisfactorily passing same, to apply to

the Court for the appointment of a Commissioner. Should the Court appoint a Commissioner, the procedure shall be as follows:

- (1) Commissioner; Qualifications; Powers. The Court may appoint as a Commissioner any sitting or retired judge or any lawyer who has been engaged in the active practice of law as a member in good standing of the Bar for not less than ten (10) years. The Commissioner shall regulate the proceedings and shall have full authority to examine the parties in the cause upon oath, touching any matter whatsoever that is germane to the question of the applicant's good moral character and fitness. The Commissioner may require, by subpoena duces tecum, the production of all books, papers, writings, and other documents applicable thereto, and examine on oath all witnesses produced by the parties. He or she may cause the testimony of absent witnesses to be taken, as hereinafter provided, and direct the place where and the manner in which the matters requiring evidence shall be proved. He or she shall have the right to compel, by subpoena, the attendance of witnesses from any part of the state and, generally, to do all other acts and direct all other inquiries and proceedings in the matters which the Commissioner may deem necessary and proper to the justice and merits of the matter and the rights of the parties. The Commissioner shall have the right to certify parties, members of the Bar, or witnesses, to the Supreme Court for contempt of the Commissioner's authority.
- (2) Representation of Committee by the Attorney for Character and Fitness. In all matters in which a Commissioner is appointed by

the Court, the Attorney for Character and Fitness shall represent the Committee in the proceedings before the Commissioner.

- (3) Status Conference. Upon the appointment of a Commissioner, a status conference including the Commissioner, the applicant and the Attorney for Character and Fitness shall be scheduled. At the conference the parties shall select a hearing date, discovery deadlines and dates to exchange witness and exhibit lists. The Commissioner may also address any other pre-hearing procedural matters and stipulations.
- (4) Notice of Hearing. The Commissioner shall issue or cause to be issued a Notice of Hearing to the parties which notice shall include the date, time and place of the hearing. The Notice of Hearing shall also notify the parties that the applicant bears the burden of proof at the hearing to establish by clear and convincing evidence that he or she meets the requirements for admission to the Bar of the State of Louisiana, that the applicant may be represented by counsel, may present evidence and may examine and cross-examine witnesses. The Notice shall also require that the parties submit pre-hearing memoranda.
- (5) Pre-Hearing Memoranda. Not less than ten days prior to the hearing the parties shall submit to the Commissioner pre-hearing memoranda which shall set forth the following information:
  - (a) The names and addresses of witnesses and whether the testimony will be in person or by deposition;
  - (b) A list of exhibits that will likely be introduced at the hearing;

- (c) Any anticipated evidentiary or legal issues which may be presented at the hearing;
  - (d) Proposed findings of fact; and
  - (e) Stipulations.
- (6) Hearing. The applicant bears the burden of proving by clear and convincing evidence that he or she meets the requirements for admission to the Bar. The Commissioner shall conduct a hearing at which all matters which bear upon the applicant's eligibility may be considered de novo. At the hearing, no deference shall be afforded to the findings of the Panel. The hearing shall not be limited to those matters raised in the Petition for Admission filed with the Court or the Notice of Failure to Meet Requirements issued by the Committee.
- (7) Procedure and Evidence. Strict adherence to the Louisiana Code of Civil Procedure and the Louisiana Code of Evidence is not required. The Commissioner may admit any material and relevant evidence which, in the judgment of the Commissioner, is probative and which may be useful to the Court for its consideration and review. Any evidence that is excluded by the Commissioner may be proffered for review by the Court.
- (8) Testimony of Out-of-State, Absent, or Unavailable Witnesses. If a witness whose testimony is material to the cause resides out of the parish in which the hearing is to take place, the testimony of the witness may be taken according to the forms prescribed by law for the taking of such testimony in civil cases in the district courts of the state; or if the witness resides out of the

state or is absent from the state, his or her testimony may be taken in the form of depositions in answer to written interrogatories and cross-interrogatories under a commission, issued by the Commissioner, and directed to a notary public or other officer authorized to administer oaths and take depositions; provided that if the testimony is taken in the form of depositions in answer to written interrogatories, the attorney for the applicant on appeal shall have the right to attend the taking of the testimony and to cross-examine or re-examine the witnesses orally; and provided further, that whether the testimony is to be taken in the form of deposition or written interrogatories, the Commissioner shall fix the time and the place for taking of the testimony. By agreement of the parties, or by decision of the Commissioner, telephonic testimony may be taken at the hearing, or telephonic depositions may be introduced at the hearing.

- (9) Hearing Recorded. All hearings shall be recorded in a manner which will allow a verbatim transcript to be prepared.
- (10) Report of the Commissioner. Within ninety (90) days of the termination of the proceedings, the Commissioner shall file with the Supreme Court his or her written report, wherein the Commissioner shall state findings of fact and conclusions of law and recommendations as to appropriate action by the Court. The Commissioner shall also file the record of the proceeding with the Court. A copy of the Commissioner's Report shall be provided to the Committee and to the applicant, each of whom may file exceptions thereto. If no exceptions are filed by either

party, the report may be confirmed by the Court and adopted as its judgment.

- (11) Exceptions to Report of the Commissioner. Within thirty (30) days of the filing of the Commissioner's Report with the Court, the applicant or the Committee may file exceptions thereto. If exceptions are filed, the matter shall then be set on the Court's summary docket and heard as the Court directs.
- (12) Record of Hearing. The record of the hearing shall consist of the transcript of the hearing, the petition, notice of hearing, stipulations, depositions and exhibits admitted into evidence, pre-hearing memoranda, any authorized post-hearing submission, and the recommendation of the Commissioner.
- (13) Denial and Reapplication. In the event the Court issues an order finding that an applicant lacks the requisite good moral character and fitness to be admitted to the Bar, an applicant is precluded from seeking admission for a period of one year from the date of the Court's order, unless the Court expressly provides otherwise.

**Part XXXII.** Louisiana Supreme Court Rule XVII, Section 10(B) be and is hereby amended to read as follows:

**Section 10. Bar Admissions Advisory Committee.**

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- (B) Powers and Duties. The members of the committee shall select one of their number to serve as chair, who shall serve as principal liaison to the Committee on Bar Admissions. The Bar Admissions Advisory

Committee shall advise and assist the Committee on Bar Admissions. Within one week following the administration of the written bar examination, the Committee on Bar Admissions shall mail or email the examination to the members of the Bar Admissions Advisory Committee. Members of the Bar Admissions Advisory Committee shall solicit written critiques of each examination from their faculty colleagues and shall provide such critiques to the Committee on Bar Admissions within thirty (30) days after the mailing of the examination. The Bar Admissions Advisory Committee shall attend the regular meetings of the Testing Panel of the Committee on Bar Admissions and shall perform such other duties as may be requested by the Committee on Bar Admissions or directed by the Court.

**Part XXXIII.** Louisiana Supreme Court Rule XVII, Section 11 be and is hereby amended to read as follows:

**Section 11. Reciprocity.** No person shall be admitted to the Bar of this state based solely upon the fact that such person is admitted to the Bar of another state or because the laws of another state would grant admission to a member of the Bar of this state. The temporary practice of law in this state by visiting attorneys is governed by statute and by Supreme Court Rule XVII, Section 13. The Committee shall have no authority with regard to the practice of law by visiting attorneys.

**Part XXXIV.** Louisiana Supreme Court Rule XVII, Section 12 be and is hereby repealed and re-enacted to read as follows:

**Section 12. Review Procedure for Part I of the Louisiana State Bar Examination.**



- (A) Representative Good Answers. Each Examiner shall designate a representative good answer for each question on the Part I examination subject for which he or she is responsible. Such representative good answers shall be chosen from the answers of the applicants who sat for the applicable examination subject. Representative good answers will be made available to applicants who received a failing score on the applicable examination subject but only during the review process described in this Section. Neither the real nor the fictitious name of the author of a representative good answer will be revealed.
- (B) Review. All failing Part I subject examination booklets will be retained by the Bar Admissions Administrator. Any applicant who fails or conditionally fails Part I shall have the right to review his or her failing examination booklets and the representative good answers for the failed examinations after making a written request in accordance with this Section.
- (1) The Committee shall designate a deadline after each administration of the Part I examination by which applicants may request a review of their failed examination booklets and the representative good answers.
- (2) The Bar Admissions Administrator shall send a postcard to each applicant who submitted a written request for review by the applicable deadline, which postcard will set forth the date and time on which the applicant may review his or her failed examination booklets. The Bar Admissions Administrator shall also designate one makeup day for those unable to review failed examination booklets at the assigned time.

- (3) All reviews shall take place at the offices of the Committee on Bar Admissions, or at any other location designated by the Committee. Reviews will be conducted between 8:30 a.m. and 12:00 noon and between 1:00 p.m. and 4:30 p.m. Applicants must complete their review before the close of each session. Applicants must sign a receipt for all examination booklets and representative good answers received for review. Applicants will not be allowed to copy or remove any Part I failed examination booklets or representative good answers. No person other than the applicant will be allowed to review his or her failed examination booklets or representative good answers. No person other than the applicant will be allowed to participate in the review. Applicants must return all examination booklets and representative good answers to the monitor before being allowed to sign out. Failure to comply with review procedures will be reported to the Director of Character and Fitness, and may be considered by the Panel on Character and Fitness in its investigation of the character and fitness of the applicant.
- (4) The decision of the Committee on Bar Admissions as to whether an applicant has passed or failed Part I, and each individual examination within Part I shall be final.
- (5) All failing Part I examination booklets may be destroyed by the Committee at any time following the scheduled date of the next Part I examination.
- (6) No cause of action shall arise in favor of an applicant as a result of the applicant's exercise of the review rights conferred in this Section.

**Part XXXV.** Louisiana Supreme Court Rule XIX, Section 25.1 be and is hereby enacted to read as follows:

**Section 25.1. Revocation of Conditional Admission to the Practice of Law.**

If a conditionally-admitted attorney violates any condition of admission, the Office of Disciplinary Counsel shall institute proceedings for revocation of the conditional admission by filing a Petition for Revocation with the Court, which petition shall be served on the conditionally-admitted lawyer in accordance with Section 13 of this Rule.

- (1) Interim Suspension. In the event the Office of Disciplinary Counsel obtains evidence that demonstrates that a conditionally-admitted lawyer has violated the terms of the consent agreement and poses a substantial threat of serious harm to the public, the Office of Disciplinary Counsel shall file a Petition for Interim Suspension and the matter shall be handled in conformity with the procedure set forth in Section 19.2 of this Rule.
- (2) Hearing. Upon receipt of the Petition for Revocation, the Court shall order a hearing. The matter shall be assigned to a hearing committee of the Louisiana Attorney Disciplinary Board on an expedited basis. At the hearing, the conditionally-admitted lawyer shall be required to show by clear and convincing evidence why his conditional admission should not be permanently revoked. The hearing committee shall recommend revocation if it determines that conditions of the consent agreement have been violated. The hearing committee shall file its report and recommendation with the Court no later than thirty (30) days from the conclusion of the hearing.

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These rule changes shall become effective on August 1, 2008, and shall remain in full force and effect thereafter, until amended or changed through future Orders of this Court.

New Orleans, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

FOR THE COURT:

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Pascal F. Calogero, Jr., Chief Justice