

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM: January 2016 – O-500

DATE: January 22, 2016

TO: Subcommittee on Moral Character

FROM: Gayle Murphy, Senior Director, Admissions
Kelly O’Haire, Director, Moral Character Determinations

SUBJECT: **Proposed Amendments to Informal Conference Procedures**

BACKGROUND

The following are excerpts from the *Admissions Rules* concerning the Committee of Bar Examiners (Committee) and conducting informal conferences:

Rule 4.46 Informal conference regarding moral character

(A) The Committee may invite an applicant for a determination of moral character to an informal conference regarding the application. Acceptance of an invitation is not mandatory, and declining it entails no negative inference.

(B) An applicant notified of an adverse determination of moral character may request an informal conference with the Committee, provided the applicant has not previously declined the Committee’s invitation to an informal conference. The request must be in writing and submitted to the Committee at its San Francisco office within thirty days of the date of the notice. Within sixty days of receiving a timely request, the Committee must schedule the informal conference, and within thirty days of the conference notify the applicant of its final determination. An adverse determination may be appealed in accordance with these rules.

(C) The Committee may establish procedures for an informal conference and create a record of it by tape recording, video recording, or any other means. The applicant may attend the conference with counsel; make a written or oral statement; and present documentary evidence. Counsel is limited to observation and may not participate.

DISCUSSION

With the retirement of the former Director for Moral Character Determinations, the Senior Director, Admissions had the opportunity to attend several informal conferences with representatives from the Committee of Bar Examiners (Committee). Since her arrival in mid-October, the current Director for Moral Character Determinations has also

participated in several informal conferences. As a result of these experiences, staff believes that several amendments to the Committee's Informal Conference Procedures should be proposed for consideration by the Committee. Attached are the current procedures with proposed amendments noted.

While most of the proposed changes are aligning language to current practice or are stylistic changes, a few are more substantive. In particular, it is recommended there be a limit on the number of postponements an applicant may have before a final decision will be made and also permits the participation of the Director for Moral Character in an informal conference, which would only be done if the Director believes that it would be best to get a particular question or point on the record in the event the decision of the Committee is appealed.

RECOMMENDATION:

If the Subcommittee agrees that the proposed amendments to the procedures should be adopted, it is recommended that the Subcommittee recommend adoption by the Committee.

PROPOSED MOTION:

If the Subcommittee agrees with this recommendation, the following motion is suggested:

Move that proposed amendments to the Committee's Informal Conference Procedures in the form hereto be adopted, effective with the date of this action.