

APPENDIX A

CHARACTER AND FITNESS STANDARDS

PURPOSE. The primary purposes of character and fitness screening before admission to the bar of Nebraska are to assure the protection of the public and to safeguard the justice system. The attorney licensing process is incomplete if only testing for minimal competence is undertaken. The public is adequately protected only by a system that evaluates character and fitness as those elements relate to the practice of law. The public interest requires that the public be secure in its expectation that those who are admitted to the bar are worthy of the trust and confidence clients may reasonably place in their attorneys.

ORGANIZATION. The bar commission will administer character and fitness screening. It will perform its duties in a manner that assures the protection of the public by recommending for admission only those who qualify.

THE INVESTIGATIVE PROCESS. The rules of the bar commission place on the applicant the burden of proving good character by producing documentation, reports, and witnesses in support of the application. Each investigation will be initiated by requiring the applicant to execute under oath a thorough application, and to sign an authorization and release form that extends to the bar commission and to any persons or institutions supplying information thereto. The applicant will be informed of the consequences of failing to produce information requested by the application and of making material omissions or misrepresentations.

STANDARD OF CHARACTER AND FITNESS. An attorney should be one whose record of conduct justifies the trust of clients, adversaries, courts, and others with respect to the professional duties owed to them. A record manifesting a significant deficiency in the honesty, trustworthiness, diligence, or reliability of an applicant may constitute a basis for denial of admission.

RELEVANT CONDUCT. The revelation or discovery of any of the following should be treated as cause for further inquiry before the bar commission decides whether the applicant possesses the character and fitness to practice law:

1. misconduct in employment;
2. acts involving dishonesty, fraud, deceit, or misrepresentation;
3. abuse of legal process, including the filing of vexatious lawsuits;
4. neglect of financial responsibilities;
5. neglect of professional obligations;
6. violation of an order of a court, including child support orders;
7. evidence of mental or emotional instability;
8. evidence of drug or alcohol dependence or abuse;
9. denial of admission to the bar in another jurisdiction on character and fitness grounds;

10. disciplinary action by an attorney disciplinary agency or other professional disciplinary agency of any jurisdiction.

USE OF INFORMATION. The bar commission will determine whether the present character and fitness of an applicant qualify the applicant for admission. In making this determination through the processes described above, the following factors should be considered in assigning weight and significance to prior conduct:

1. the applicant's age at the time of the conduct;
2. the recency of the 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 evidence of rehabilitation;
8. the applicant's positive social contributions since the conduct;
9. the applicant's candor in the admissions process;
10. the materiality of any omissions or misrepresentations.

The investigation conducted by the bar commission will be thorough in every respect and will be concluded expeditiously.