

BOARD OF LAW EXAMINERS
OF THE
STATE OF NORTH CAROLINA

POLICY MANUAL

Last Updated: September 2015

BOARD OF LAW EXAMINERS OF THE STATE OF NORTH CAROLINA
POLICY MANUAL
TABLE OF CONTENTS

I. Organizational Components

A. Chair Succession 100.00

B. Committees 110.00

II. Financial Management

A. Financial Policy 200.00

B. Reimbursement Procedure for Executive Director 205.00

C. Investment Policy..... 210.00

III. Applicants

A. General..... 300.00

Postmark Deadline..... 301.00

Return of Applications 303.00

Withdrawal and Refund 304.00

Transfer of an Application Fee 305.00

Denial of Application on Character and Fitness Grounds; Rehabilitation 306.00

Administrative Fees 308.00

B. Comity 320.00

Practice Time for Judge Advocate 323.00

MPRE..... 324.00

Converting From Comity to General 326.00

IV. Bar Examination

Examination Regulations and Code of Conduct 400.00

Exam Statistics 410.00

Copyrighting of Bar Exam 420.00

Examination Grading..... 430.00

Team Grading Policy..... 440.00

Review for Unsuccessful Applicants..... 450.00

Release of MBE Score to Successful Applicants 460.00

Review and Re-Grading 470.00

Confidential List of Applicants to NC Law School Deans 480.00

Selected Answer Booklet to NC Law School Deans 490.00

Record and Disposition 495.00

V. Character and Fitness

<i>Character and Fitness Guidelines</i>	500.00
<i>Character and Fitness Hearings and Sealing Result</i>	510.00
<i>Record of Panels</i>	520.00
<i>Substantial Compliance with Rules</i>	530.00

<i>VI. Select Drafting Committee</i>	600.00
--	--------

<i>VII. Policy for Special Accommodations for Disabled Applicants</i>	700.00
---	--------

I ORGANIZATIONAL COMPONENTS

Policy No: 100.00

A. CHAIR SUCCESSION

The Election of the Chair shall take place at the Board's meeting occurring during the August grading session. The chair may serve successive terms.

Policy No: 110.00

B. COMMITTEES

Between the August and October Meetings of the Board, the Chairman will appoint the Chairs and members of the following committees and such other committees as the Chair considers advisable:

Executive Committee	
Finance, Audit, House & Personnel Committee	Bar Candidate Committee Liaison Group
Character and Fitness Committee	Special Issues Committee
Rules and Policy Committee	New Member Orientation Committee
Drafting & Testing Committee	Bar Exam Grading Committee
Select Drafting Committee	

II FINANCIAL MANAGEMENT

Policy No: 200.00

A. FINANCIAL POLICY

It is acknowledged that each member of the board dedicates a substantial amount of time for duties and operations of the Board. Board members should be fairly reimbursed and compensated for the performance of those duties and responsibilities.

Allowable Reimbursement

1. Board Members may be reimbursed for all reasonable and necessary expenses incurred in the performance of duties including:
 - a. Attending Board meetings
 - b. Attending Committee or Panel meetings
 - c. Attending other Board, Bar or law school related functions when authorized or approved by the Chairman
 - d. Attending National Conference of Bar Examiners meetings and seminars

2. The expenses to be reimbursed include the following:
 - a. Travel by private automobile at the mileage rate approved by the I.R.S.; rental automobile with approval of the chair; or public conveyance to and from the meeting or function
 - b. Taxi fares
 - c. Lodging for the night prior to a meeting or function beginning at a time which would require the member to leave home before 8:30 a.m., lodging during the period of the meeting or function and lodging the night following the function if it ends at a time which would not allow the member to reach home before 5:30 p.m.

Members are encouraged to leave home and arrive on the same date as the function to be attended and leave from that function and arrive home on the same day.
 - d. Meals from the time of departure from home to the time of return.
 - e. Parking fees, reasonable tips and other expenses which are necessary and incidental to travel and lodging.
 - f. Recreational expenses of \$50.00 per day, incurred at a Board meeting or at a meeting of another organization at which the member is representing the Board, lasting two or more days. Any request for a reimbursement should be accompanied with appropriate documentation. These expenses can be paid directly by the Board or members can be individually reimbursed for these expenses.
3. The amount of expenses for which members may be reimbursed for meals and lodging will not be limited to the maximum allowed for state employees when the Board Chair has authorized extraordinary expense reimbursement as provided by law. All expenses for which reimbursement is claimed will not exceed a reasonable amount and will be limited to the personal expenses of the member; and when the member is accompanied by the member's spouse, the reimbursement for lodging will be at the rate for single accommodations at the same or a similar hotel.
4. Air travel will be coach, tourist or economy class.
5. Reimbursement will not be allowed for any alcoholic beverage.
6. Reimbursement will not be allowed for personal phone calls.

Procedure for Reimbursement

1. Board members will submit vouchers in order to claim reimbursement for travel expenses. Each item for which a claim is being made will be listed separately.
2. Supporting documents in the form of a receipt, bill, credit card ticket or canceled check for each item will accompany the voucher except that individual items of \$20.00 or less need not be supported by documentation. It will not be necessary to furnish receipts for meals unless they exceed the following amounts:
 - * Breakfast - \$20.00
 - * Lunch - \$30.00
 - * Dinner - \$60.00
3. When charges for two or more Board members or Board members and spouses appear on a single bill, each Board member may claim a pro rata share of the total for reimbursement and may refer to the voucher of another Board member as the supporting document.

Per Diem Allowance

1. Under applicable law and regulations, each Board member is entitled to receive \$100.00 per day as compensation for each day during which services are rendered in the performance of duties.

Group Meals & Lodging

When a group of Board members is eating a meal together or attending a board function and it is more convenient for the Executive Director to pay all or part of the charges rather than for each member to pay separately, the Executive Director may pay the entire bill or part thereof with Board funds but the payment will be supported by documents showing the total cost and the allocation to each member of a pro rata share. If spouses or guests of Board members are present, the Executive Director will collect from the member's per diem account the pro rata share of the expenses for the spouse or guest.

Policy No.: 205.00

B. REIMBURSEMENT PROCEDURE FOR EXECUTIVE DIRECTOR

The Executive Director will be reimbursed for the following reasonable and necessary expenses incurred in performing his duties:

1. Travel expenses in attending meetings of the Board, Committee meetings, or other professional meetings and functions when authorized or approved by the Chairman.

The mileage allowance approved by the I.R.S. will be paid when travel is by personal automobile and this will be lieu of any reimbursement for automobile maintenance, repairs and depreciation. Travel by public conveyance will be at coach, tourist or economy rates.

- a. Reimbursement will be claimed by submitting vouchers which indicate the date and destination of each trip with the number of miles traveled.
 - b. For reimbursement for travel by public conveyance, a receipt or copy of the ticket will be attached to the voucher.
 - c. Mileage from the residence to the offices of the Board of Law Examiners will not be paid.
2. Except as provided in subparagraph (b), reasonable and necessary expenses for meals, lodging, incidental expenses and the customary fees for recreational expenses will be reimbursed when attending meetings of the Board, Committee meetings, and other functions and activities when authorized or approved by the Chairman. Reimbursement will not be limited to the maximum amount allowed for state employees.
- a. Claims for reimbursement will be made on vouchers and will be itemized for each meal and each item of incidental expense. Claims will be supported by copies of the bill, credit card ticket, or a receipt, except for items of expenditure of \$20.00 or less. It will not be necessary to furnish receipts for meals unless they exceed the following amounts:
 - * Breakfast - \$20.00
 - * Lunch - \$30.00
 - * Dinner - \$60.00
 - b. When attending professional meetings approved by the Board Chair, the Executive Director will be reimbursed for his travel, meals, lodging and necessary incidental expenses.

MISCELLANEOUS

1. When it is necessary for the Executive Director, a staff member or a Board Member to purchase any item for the use of the Board, reimbursement will be claimed by voucher describing the item purchased and will be supported by documents which describe the items and verify payment of the amount claimed.
2. A non-board grader and guest will be reimbursed for meals and the cost of a room at all grading sessions.

Travel expenses will be reimbursed at the same rate as members.

A per diem of \$50.00 per day with a cap of \$300.00 will be paid per grading period to each non-board grader.

The 12th grader or a non-board member who is substituting for a board member will have a per diem of \$50.00 per day with no cap.

3. Before exceeding any line item of the budget, the Executive Director must obtain the approval of the Finance and Audit Committee to shift items from another line item.
4. The Chair of the Finance, Audit & House Committee may review some vouchers and reimbursed expenses on a regular basis. Any issues from a review of vouchers should be discussed privately with the individual board member.
5. The Staff Accountant will be happy to assist any member in preparing a voucher.

Policy No: 210.00

C. INVESTMENT POLICY

It is the policy of the Board of Law Examiners to invest funds in a manner which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but to, in order of priority, preserve and safeguard the principal amount invested; provide liquidity to meet operating cash flow needs; and earn the highest yield possible, considering required safeguards.

This investment policy applies to the financial assets of all Board of Law Examiners funds.

The Board's Finance, Audit, House & Personnel Committee shall review the investment policy annually. Recommendations for modifications to the policy may be made by the Executive Director, the Board's Finance, Audit, House & Personnel Committee, or members of the Board.

The Board of Law Examiners authorizes the Executive Director to invest funds of the Board of Law Examiners that are available for investment in any account, and to utilize cash management selecting from among the following:

- 1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;
- 2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration and the United States Postal Service.

- 3) Repurchase Agreements with respect to securities issued or guaranteed by the United States government or its agencies or other securities eligible for investment by this section executed by a bank or trust company or by primary or other reporting dealers to the Federal Reserve Bank of New York.
- 4) Obligations of the State of North Carolina;
- 5) Savings certificates issued by any savings and loan association organized under the laws of the State of North Carolina or by any federal savings and loan association having its principal office in North Carolina.
- 6) Certificates of deposit issued by banks organized under the laws of the State of North Carolina, or by any bank having F.D.I.C. Insurance.
- 7) Shares of or deposits in any savings and loan association organized under the laws of the State of North Carolina, or any federal savings and loan association having F.D.I.C. Insurance.
- 8) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service.
- 9) Prime quality master notes, obligations of banks organized under the laws of the State of North Carolina, or any national bank having its principal office in North Carolina.
- 10) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank.
- 11) Asset-backed securities (whether considered debt or equity) provided they bear the highest rating of at least one nationally recognized rating service.
- 12) Corporate bonds and notes provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest by any nationally recognized rating service which rates the particular obligation.

To the extent possible, the Board of Law Examiners will attempt to match its investments with anticipated cash flow requirements while attempting to minimize market risk. The Board of Law Examiners will not directly invest funds needed for current operations in securities maturing more than twenty-four months or posing potential credit risk, such as corporate or mortgaged-backed securities. Reserve funds may be invested in all securities authorized by this policy not to exceed five years if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

Interest income received by the Board of Law Examiners from investments shall be deposited to the general fund.

III. APPLICANTS

A. GENERAL

Policy No: 301.00

POSTMARK DEADLINE

All applications with postage meter postmarks that are postmarked on or before the deadline date will be accepted as timely filed. In addition the stamp of any recognized delivery service will be treated in the same way that postal service postmarks are treated. This same policy applies to applicants withdrawing their application in time to receive a refund.

Policy No: 303.00

RETURN OF APPLICATIONS

An applicant shall not be considered eligible for consideration, for purposes of Rule .0405, if: (a) the applicant is suspended or disbarred from the practice of law in another jurisdiction, (b) the applicant seeks admission by comity from a jurisdiction with which North Carolina does not have comity, (c) on the face of the application for admission by comity, the applicant has not satisfied the time in practice requirement of Rule .0502(3), (d) the applicant has not graduated from a law school approved by the Council of the North Carolina State Bar, or (e) a previous application by the applicant has been denied on character or fitness grounds, and the new application is submitted before the expiration of the period after which the applicant is eligible to reapply, as provided in the Rules or by order of the Board.

Policy No: 304.00

WITHDRAWAL OF APPLICATION AND REFUND OF APPLICATION FEES

The Board Chair may delegate to the Executive Director the authority to accept an applicant's withdrawal of that applicant's application and to refund to the applicant that portion of the applicant's fees as provided in the Board's rules. In the event the applicant desires to withdraw the application when the applicant has been noticed to appear before a Panel or the full Board for a hearing, the Panel or Board Chair, if the hearing is before the Board, shall exercise such authority.

The Board Chair may delegate to the Executive Director the authority to grant a request from a general applicant who has been notified to appear for a hearing, to postpone taking the written examination until after the applicant's character and fitness issues have been resolved.

TRANSFER OF AN APPLICATION FEE

The Executive Director may, for good cause, transfer the application fee from one examination to the next succeeding examination. Before such action will be considered, the applicant must file a sworn statement setting forth the reason for the request. If the reason for the request is physical or medical in nature, The Board may also require a sworn or unsworn statement from a licensed physician or other relevant expert. The request must be received before the first deadline for the next succeeding examination.

DENIAL OF APPLICATION ON CHARACTER AND FITNESS GROUNDS REAPPLICATION

It is the policy of the Board that the applicable date of denial under Rule .0605 of the Rules Governing Admission to the Practice of Law in the State of North Carolina is the date on which the Board took the action denying the application not the date the written order is entered.

ADMINISTRATIVE FEES

Documentary Deficiency Fee

All bar applications must be completed in a timely manner. If an application is not complete, the designated investigative analyst shall notify the applicant in writing, noting the deficiency and specifying the missing documents. If the applicant does not submit the requested documents within the time limit specified in the analyst's letter, the applicant will be assessed a \$100.00 "documentary deficiency fee". The investigative analyst shall notify the applicant in writing of the assessment of this fee.

Bar Examination Infractions Expedited Review Fee

Applicants who have prohibited items confiscated at the Bar Examination site must have these infractions reviewed by the Board. If such an applicant wishes to request an expedited review, he or she must submit a \$200.00 expedited review fee with the required explanatory affidavit. Upon submission of the fee and affidavit, the matter will be reviewed by a Panel of the Board within a reasonable period of time after receipt. All other cases involving confiscated items will be reviewed by the full Board at its next regularly scheduled meeting.

Other Miscellaneous Administrative Fees

Late fee:	\$ 250.00
Laptop fee:	\$ 125.00
Application copy fee:	\$ 20.00
MBE Transfer fee:	\$ 25.00
Select Answer Booklet fee:	\$ 30.00
Failure to supply copy of Application fee:	\$ 20.00
Copy fee:	\$.25 per page
License copy fee:	\$ 35.00
Examination Answers copy fee:	\$ 20.00

March 2015

B. COMITY

Policy No: 323.00

PRACTICE TIME FOR JUDGE ADVOCATE

In considering the practice time for an applicant who is using service as a member of the armed services, the time the applicant spends in JAG school can be included in meeting the four-of-six practice requirement.

Policy No: 324.00

MPRE

A comity applicant will not be interviewed by a hearing panel until the applicant has passed the MPRE. In the event a comity applicant has passed the MPRE in another jurisdiction with a score lower than North Carolina's passing score, such lower score will be acceptable.

Policy No: 326.00

CONVERTING FROM A COMITY APPLICATION TO A GENERAL APPLICATION

If a comity application is denied for reasons peculiar to admission by comity, the applicant may request the Board to transfer the comity application to a general application and permit the applicant to take the bar examination. The Executive Director may grant these requests. A \$50.00 examination fee is required.

IV. BAR EXAMINATION

Policy No: 400.00

EXAMINATION REGULATIONS AND CODE OF CONDUCT FOR APPLICANTS FOR THE NORTH CAROLINA BAR EXAMINATION

Please read the following Examination Regulations and Code of Conduct and initial on the appropriate line by each numbered paragraph to indicate that you have read and understand it. Sign the statement at the bottom of the page. This document should be turned in to the member of the staff or proctor with your admission ticket when you are checked-in prior to the first session of the examination.

Any applicant who engages in cheating or conduct which disrupts or attempts to disrupt the bar examination process or who breaches any examination regulation is subject to sanctions by the Board or its authorized representative including, but not limited to, ejection from the examination site.

- _____ 1. Applicants should only bring to the bar examination their admission ticket, this signed Examination Regulations and Code of Conduct and a photo identification card. Do not bring pens, pencils, erasers, clocks, watches or other timing devices. Pens, pencils, erasers, highlighters, ear plugs, scratch paper and an applicant ID card, which are all that will be needed in connection with the taking of the examination, will be furnished. Clocks will be located in every examination room and area.
- _____ 2. Applicants shall not bring watches or other timing devices in the examination building (for examination sites at the North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center). If an applicant brings any such item into these areas, the item will be confiscated.
- _____ 3. Applicants shall not bring phones, pagers, blackberries, external keyboards, keyboard covers, computer mouses, adapters, Fitbit trackers, activity trackers, or any other electronic device in the examination building (for examination sites at the North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center). If an applicant brings any such item into these areas, the item will be confiscated.

If an applicant is using a MacBook that requires a USB-C to USB adapter, this adapter will be made available to the applicant at the examination site during the afternoon session of the essay portion of the examination to back-up the applicant's essay examination onto the USB flashdrive provided by the Board.

- _____ 4. No books, notes, written or printed material, CDs or data of any kind will be allowed in the examination building (for examination sites at the North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center). If you have any such items in your possession, they will be confiscated. The Board assumes no liability for any damaged or missing items.

- _____ 5. No pocketbooks, handbags, knapsacks, bookbags, briefcases, totebags, laptop bags or covers (unless totally clear), wallets or eyeglasses cases are allowed in the examination building (for examination sites at North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center). The following materials are permitted, but must be in a clear plastic zip-top bag not to exceed 1-quart size: Driver's License, Photo Identification Card, Social Security Card, health insurance card, hotel key, car keys, money, credit cards, reading glasses, sunglasses, lip balm in original manufacturer container, non-prescription eye drops in original manufacturer container.
- _____ 6. Except with prior written approval from the Board, no scarves or hats are allowed in the examination building (for examination sites at the North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center).
- _____ 7. No applicant is allowed to make any notes from memory or review any bar review material or other material once you enter the examination building (for examination sites at the North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center) and prior to the start of an examination session. If an applicant does so or has any such items in his or her possession, they will be confiscated.
- _____ 8. Applicants may wear a light-weight outer garment, WITH NO POCKETS OF ANY KIND, into the examination room. This garment may be worn by the applicant or may be placed by the applicant on the back of the applicant's chair during the examination sessions. It is within the discretion of the Board and identified Board employees what shall constitute an acceptable "light-weight outer garment" for purposes of this regulation. If an applicant is told by the Board or a member of the Board's staff, that the item is not acceptable under this regulation, the applicant shall be prohibited from entering the examination room with said item.
- _____ 9. No applicant shall bring any knife (including any pocketknife or multi-tool with blades), gun or any weapon of any kind or description into the examination building.
- _____ 10. No examination material or copy thereof may be removed from the examination room without prior approval of a proctor.
- _____ 11. Applicants shall leave the examination building (for examination sites at the North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center) immediately upon completing any portion of the examination and not re-enter until admitted by a proctor. Any applicant leaving the examination building (for examination sites at the North Carolina State Fairgrounds) or in the secured area (for examination sites at the Jane S. McKimmon Center) during a session of the examination is not permitted to re-enter during that session.

COPYRIGHTING OF BAR EXAMINATION

The Board has copyrighted the essay portion of the North Carolina Bar Examination. The Board has not granted requests (mostly from bar review courses) to photocopy the exam.

EXAMINATION GRADING

If a Member of the Board of Law Examiners is unable to grade a particular examination, that member shall notify the Chair of this fact in sufficient time so that an emeritus member may be recruited and assigned to grade the examination in place of the Member.

All grading of the examination shall be done during the time and place scheduled for grading the examination. If a member wants to grade part or all of an examination at a different time or at a different place, the Member may do so only with the advance approval of the Board Chair.

TEAM GRADING POLICY

I. INTRODUCTION

A. Necessity for Team Graders

Because of the large number of applicants for the July bar examination, it has become necessary for the Board to increase the number of graders for the essay portion of the exam. It is the Board's preference to seek the participation of Emeritus members of the Board for this task. These individuals have the experience and expertise to reassume grading duties with a minimum of re-training. In the event that additional graders are needed, the Board Chair will seek additional graders who are well-versed in their areas of expertise and who have the ability to assume the duties of grading with appropriate training from the Board Chair or other Board members designated by the Chair.

B. Selection of Grading Teams

The Board Chair will appoint the necessary number of additional graders. The members of the Board may make recommendations to the Chair for additional graders.

C. Compatibility of Board Members with Particular Team Graders

If problems develop between a Board member and the team grader assigned to him or her, the Board member will notify the Board Chair. The Board Chair will attempt to reconcile the differences between the team. If such differences cannot be reconciled, the Board Chair will make arrangements to reconstitute a new team, assigning a different team grader to assist the Board member.

II. **TEAM LEADERSHIP**

A. Board Member is Leader

The Board member will be the leader of the grading team and will make all final decisions regarding the issues to be considered, including the points awarded for a particular answer or part of an answer and any other matters relating to the grading process and protocol. For a team with no current Board member, the Chair will designate the leader of the team.

B. Collaboration Encouraged

Team graders are to be encouraged to share ideas on grading issues with their assigned Board member and to help the Board member prepare, grade and record all answers in a full, fair and efficient manner.

III. **DUTIES OF TEAM GRADER**

A. Communication/Calibration with Board Member Prior to Grading Session

Team graders must communicate with the Board member they have been assigned to assist, either by telephone or in person, prior to the grading session, to consider and determine the grading pattern for the bar examination. The Board member will make the final decision regarding the grading pattern and final points to be awarded on all issues.

B. Seating at Grading Session

The team grader should sit next to or in close proximity to the Board member during the grading session, unless the Board member agrees to a different arrangement.

C. Periodic Re-calibration During Grading Session

Periodically during the grading session (for example, once per day), the Board member and the team grader shall exchange five (5) exams and re-grade those exams to ensure that the calibration between the Board member and the team grader continues to be consistent. The Board member and the team grader will work

together to ensure that the grading pattern is accurate. The Board member will make the final decision as to the grading calibration and the team member will follow that decision for the remainder of the grading session. Should any re-grading be necessary, the Board member will decide which exams and scores will be re-done and finalized. If necessary, the Board Chair will be consulted as to any final decisions and may, in his or her discretion, order any additional re-grading.

D. Checking of Scores for Accuracy

The Board member will arrange for the checking of all recorded scores to ensure their accuracy.

E. Team Grader to Check with Board Member before Departure

Before leaving the grading session, the team member will consult with the Board member to ensure that all procedures, protocols and grading requirements have been met, including leaving scoring papers so that they are available when scores are checked.

IV. POST-GRADING PROTOCOL

A. Security of Grading Pattern and Score Reports

The Board member will maintain security and confidentiality of the grading pattern and score reports. The team grader will maintain confidentiality regarding all issues and matters related to the grading session. All materials related to the grading protocol, procedures and results will be maintained securely and confidentially for one (1) year from the date the grading session ends. At the end of this time period, all materials may be destroyed, except for those final grades and materials required to be delivered by and to the Board.

V. EXPENSES OF TEAM GRADERS

Expenses of the Team graders shall be reimbursed as outlined in the Board's Financial Policy. A copy of the Financial Policy shall be distributed to each team grader at the same time the team grader is sent his or her sample answers and letter instructing the team grader on the procedures to be used in cutting the grading pattern.

Policy No: 450.00

REVIEW BY UNSUCCESSFUL APPLICANTS

At the conclusion of the grading session for each examination, the grader of each essay question may select approximately five “best” answers to that question, or the grader may in the grader's discretion substitute a suitable answer prepared by the grader if no answer graded by the grader is deemed sufficient, to be included in a Select Answer Booklet. These “best” answers should be good, solid answers with high point scores, preferably a ten. The Select Answer Booklet containing these answers for each essay question may be used by unsuccessful applicants in reviewing their essay examinations.

Policy No: 460.00

RELEASE OF MBE SCORES TO SUCCESSFUL APPLICANTS

The Board has consistently refused to release to a successful applicant that applicant's MBE scores. If an applicant wishes to transfer the MBE score to another jurisdiction, the staff has been given authority to advise the applicant whether the score is above or below another jurisdiction's set MBE score.

Policy No: 470.00

REVIEW AND RE-GRADING

It is the Board's policy that essay examination questions will not be reread and re-graded after the examination results are released.

Policy No: 480.00

CONFIDENTIAL LISTS OF BAR EXAM APPLICANTS TO NC LAW DEANS

The Board has authorized its Executive Director to furnish to the Deans of the NC Law Schools a list of their applicants taking the NC Bar Examination noting whether each applicant passed or failed the examination.

Policy No: 490.00

SELECTED ANSWER BOOKLET TO THE NORTH CAROLINA LAW DEANS

The Board has authorized its Executive Director to furnish to the Deans of the North Carolina law schools a booklet containing the essay portion of the February and July examinations along with the selected answers. The booklet is furnished to the deans with the request that it not be copied and that it be returned to the Board after it has served its purposes.

RECORD AND DISPOSITION SCHEDULE FOR COMPUTER MEDIA USED AT BAR EXAMINATIONS

The Board will retain computer media on which the Applicants' answers were provided to the Board for a period of six months after the conclusion of the examination.

V. CHARACTER AND FITNESS

Policy No: 500.00

CHARACTER AND FITNESS GUIDELINES

Every applicant shall have the burden of proving that the applicant possesses the qualifications of character and general fitness requisite for an attorney and counselor-at-law, and is possessed of good moral character and is entitled to the high regard and confidence of the public.

The term "good moral character", includes but is not limited to the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary and personal responsibility and of the laws of North Carolina and of the United States and a respect for the rights and property of other persons. The term "fitness" includes but is not limited to, the mental or emotional stability of the applicant to practice law in North Carolina.

In satisfying the requirements of good moral character and fitness, applicants should be persons whose record of conduct justifies the trust of clients, adversaries, courts and others with respect to the professional duties owed to them and whose record demonstrates the qualities of honesty, trustworthiness, diligence, responsibility and reliability.

The revelation or discovery of any of the following may be treated as cause for further inquiry before the Board decides whether the applicant possesses the requisite character and fitness to practice law. The foregoing is inclusive of but not limited to:

1. Unlawful conduct
2. Academic misconduct.
3. Making or procuring any false or misleading statement or omission of relevant information including any false or misleading statement or omission on the application for admission to a college or university, a law school, or to the North Carolina Bar or any amendment or in any testimony or any sworn statement submitted to the Board.
4. Misconduct in employment.
5. Acts involving dishonesty, fraud, deceit or misrepresentation.

6. Abuse of legal process.
7. Neglect of financial responsibilities.
8. Neglect of professional obligations.
9. Violation of an order of a Court, including failure to pay child support.
10. Military Misconduct. A discharge other than honorable.
11. Evidence of current mental or emotional impairment.
12. Evidence of drug or alcohol misuse, abuse or dependency.
13. Denial of admission to the Bar in any other jurisdiction on character and fitness grounds.
14. Disciplinary action by a lawyer, disciplinary agency, or other professional disciplinary agency of any jurisdiction.
15. Any other conduct which reflects adversely upon the character or fitness of the applicant.

The Board has developed policies and procedures from many of the above-cited examples of questionable conduct. These include but are not limited to:

A. Unlawful conduct:

North Carolina allows an applicant to omit reference to any arrest, charge or conviction that has been expunged by a duly entered order of expunction pursuant to Article 5 of Chapter 15A of the General Statutes of North Carolina. For any offenses that have not been expunged as outlined above, the Board 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.

Other than offenses that have been expunged as outlined above, the Board is authorized to inquire into all areas of possibly relevant applicant misconduct. The applicant is required to report such incidents, and to provide evidence of rehabilitation, if relevant, and evidence of current good character. The occurrence of an acquittal or dismissal is relevant, but is not dispositive of the issue. This is not to suggest that the Board will assume that any arrest was due to guilty conduct on the part of an applicant. The applicant's obligation is to be completely forthright regarding all matters about which the Board inquires.

If, at the time of the application, criminal charges are pending against the applicant, the Board will table the application until these charges are resolved. If a conviction results in probation, restitution or some other sentence, the Board will not consider the application until the sentence has been served and probation completed. The Board will then proceed to investigate the facts and circumstances that led to the criminal charges.

B. Making a false statement:

Dishonesty in dealings with employers, schools (including applications for admission) and authorities, including the Board of Law Examiners, is grounds for denial of bar applications. Giving false information on the application or failing to be entirely forthcoming and completely candid in the application process is a serious error which will have negative consequences for an applicant. With respect to non-disclosure on the law school application the Board 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.

C. Neglect of financial responsibilities:

The Board 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, the Board 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, the Board considers it important that the applicant demonstrate several months payments as agreed to show a good faith effort to clear the debts.

If an applicant has defaulted student loans, the Board may in its discretion hold the application in abeyance until the applicant has made arrangements with the lender(s) for repayment of the loan(s) and has made several months of consecutive and uninterrupted monthly payments pursuant to the plan agreed to by the lender(s). Any arrearage in child support must be paid before an applicant will be certified by the Board.

D. Evidence of current mental or emotional impairment and drug and alcohol dependency:

The Board of Law Examiners uses the application to inquire into circumstances that may affect an applicant's ability to meet the professional responsibilities of a lawyer. This information is treated confidentially by the Board. The purpose of such inquiries is to allow the Board to determine the current fitness of an applicant to practice law. The mere fact of treatment, monitoring, or participation in a support group is not, in itself, a basis on which admission is denied; the Board routinely admits individuals who demonstrate personal responsibility and maturity in dealing with fitness issues. The Board encourages applicants who may benefit from assistance to seek it.

The Board does, on occasion, deny admission to applicants whose ability to function is impaired in a manner relevant to the practice of law at the time that the licensing decision is

made, or to applicants who demonstrate a lack of candor by their responses. This is consistent with the public purpose that underlies the licensing responsibilities assigned to the Board; further, the applicant has the responsibility for demonstrating qualification to practice law.

The Board does not seek information about that which can be fairly characterized as situational counseling. Examples of situational counseling include stress counseling, domestic counseling, grief counseling, and counseling for eating or sleeping disorders.

E. Evidence of Rehabilitation:

The Board shall determine whether the character and fitness of an applicant qualify the applicant to take the North Carolina Bar Examination or to be admitted by comity. In making this determination, 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 applicant's candor in the admissions process.
8. The materiality of any omissions or misrepresentations.
9. The evidence of rehabilitation and the applicant's positive social contributions since the conduct.

Evidence of rehabilitation is one of the main factors the Board uses to determine whether past problems should lead to denial of an application. Under Rule .0601 of the Board's Rules, every applicant has the burden of proving that the applicant possesses the qualifications of character and general fitness requisite for an attorney and counselor-at-law and is possessed of such good moral character as to be entitled to the high regard and confidence of the public.

An applicant who asserts rehabilitation from prior misconduct which bears adversely upon the applicant's character and fitness shall be required to produce clear and convincing evidence of such rehabilitation, which may include but are not limited to the following elements:

1. Absence of recent misconduct

2. Strict compliance with the specific conditions of any disciplinary, judicial, administrative or other order, where applicable
3. Impeccable character and moral standing in the community
4. Good reputation for professional ability, where applicable
5. Sufficiency of the punishment including payment of fines and restitution made; including the restitution of funds or property, where applicable
6. Applicant's current attitude about prior offenses (acceptance of responsibility and renunciation of past wrongdoing and remorse)
7. Lack of malice and ill feeling toward those who by duty were compelled to bring about the disciplinary, judicial, administrative or other proceeding
8. Personal assurances, supported by corroborating evidence, of a desire and intention to conduct one's self in an exemplary fashion in the future
9. Applicant's constructive activities and accomplishments subsequent to the criminal conviction
10. Applicant's candor, sincerity and full disclosure in character and fitness proceedings
11. Positive actions beyond those one would do for self-benefit including but not limited to working as a guardian ad litem, volunteering on a regular basis with shelters for the homeless or victims of domestic violence or maintaining substantial involvement in other charitable, community or educational organizations whose value system, overall mission and activities are directed to good deeds and humanitarian concerns impacting a broad base of citizens
12. Demonstration of the applicant's understanding of the responsibility to the administration of justice and the practice of law

Merely showing that an individual is now living as and doing those things that this 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 to members of the Bar.

The Board will not consider witness testimony or evidence offered by a witness in support of the applicant on any issue listed above unless the witness has been fully informed of the misconduct before offering the evidence.

CHARACTER AND FITNESS HEARINGS & SEALING RESULTS

1. When the Character and Fitness Committee votes that an applicant should appear before a Hearing Panel, that applicant should be given formal and timely notice.
2. Prior to a hearing an applicant should be allowed full review of the applicant's file except for confidential information furnished to the Board. This review should take place in the Board's offices under the supervision of a Board employee. An applicant or the applicant's attorney should be furnished with copies of any portion of this file, requested during the course of the review of the file, after paying copying costs.
3. Applicants who have taken the examination should be treated as priority cases by the Board and hearings before a Hearing Panel should be set as soon as possible after the grading session.
4. The Board Chair may designate two or more current members of the Board or Emeritus members of the Board to sit on Hearing Panels. If a hearing has been scheduled before a Panel and, because of an emergency, one designated member of the Panel is unable to appear and there is insufficient time to arrange for another member to participate in the Panel, the Executive Director is authorized to act as a substitute for that designated member of the Panel for the scheduled hearings.
5. The written bar examination results of an applicant shall be sealed when the applicant (a) has allegedly been involved in activities that violate the Examination Regulations and Code of Conduct; or (b) the applicant has not graduated from law school as provided by the provisions of Rule .0702 of the board's rules; or (c) the applicant's application is still incomplete. Otherwise, the examination results of an applicant will not be sealed.
6. If the results of the written bar examination by an applicant are not sealed and the applicant did not pass, any proceedings on character and fitness issues shall be terminated for that application and any decision of the panel shall not be considered binding on a future application.

RECOMMENDATIONS TO BE MADE BY THE HEARING PANEL ON APPLICATIONS THAT ARE DENIED OR REFERRED TO THE BOARD

When a Hearing Panel has taken action on an application in which there may be a Board Hearing, either a denial or a referral, it should make the following recommendations:

What if any additional investigation should be done by the Board's staff or the Board's attorney?

What else needs to be done with the file. Are any other documents needed or additional statements from the applicant, etc.?

Are there certain areas that the Board's attorney needs to probe further?

Is a more independent investigation needed?

Are any witnesses to be subpoenaed by the Board?

Policy No: 530.00

SUBSTANTIAL COMPLIANCE WITH THE RULES IN PROVIDING INFORMATION COLLATERAL TO THE APPLICATION. (TRANSCRIPTS)

Situations may arise in which an official transcript from the applicant's undergraduate school cannot be furnished (usually because money is still owed). If the applicant can show that the applicant did attend the school and graduate by furnishing a copy of the student transcript, and a copy of the graduation bulletin with the applicant's name on it or a letter from the registrar, the applicant will be deemed to be in substantial compliance with the Board's rules in regard to transcripts.

Policy No: 600.00

VI. SELECT DRAFTING COMMITTEE ELIGIBILITY REQUIREMENTS

1. A member of the North Carolina Bar actively engaged in the practice of law for at least three years.
2. Have no connection with any bar review course.
3. Not currently employed by any law school.
4. Be willing to serve without compensation except for an honorarium for questions submitted (\$300.00 per question).

Policy No: 700.00

VII POLICY FOR SPECIAL ACCOMMODATIONS FOR DISABLED APPLICANTS

It is the policy of the Board of Law Examiners of the State of North Carolina to administer the bar examination in accordance with the Americans with Disabilities Act, as amended (ADA), and to provide reasonable accommodations for qualified disabled applicants including persons with learning disabilities and persons with health impairments. The bar examination will be administered to all qualified eligible applicants in a manner that does not discriminate against those applicants with disabilities.

Persons needing special accommodations on examinations should make written request to the Board to obtain the necessary information, procedures and written forms. Appropriate current documentation is required by the Board with each petition submitted.

Upon written petition to the Board, the manner in which the examination is administered to an applicant may be modified, provided such modifications do not result in a fundamental alteration to the examination or other admission requirements, impose an undue burden, or jeopardize the security or integrity of the examination.

An applicant must submit a written request for special testing accommodations on forms prescribed by the Board no later than the first Tuesday in December for the February examination and the first Tuesday in May for the July examination. Relief from the filing deadline may be granted for good cause which shall be shown by proof of a substantial and material change in the applicant's condition from the condition that the applicant possessed prior to the deadlines set out above.

Requests for test accommodations will be evaluated on a case-by-case basis.

Applicants must submit a current medical verification prepared by a licensed professional qualified to diagnose such disability, which provides information on the diagnosed disability or impairment, the applicant's current level of impairment, and the rationale for the accommodations requested on the bar examination. The Board may have this medical verification reviewed by a licensed professional retained by the Board to verify the nature and extent of any disability or impairment.

In addition to the medical verification, the Board may require the applicant to provide additional information in support of applicant's request. This information may include but is not limited to information concerning special accommodations provided during the applicant's high school, undergraduate and law school education and certification from official representatives of the school(s) where such accommodations were provided.

Accommodations granted elsewhere do not necessarily entitle an applicant to accommodations on the bar examination, although considerable weight is given to documentation relating to past accommodations received in similar testing situations or in response to an IEP or Section 504 plan.

The Board may also require the applicant to undergo a physical examination to be conducted by a licensed professional designated by the Board verifying the nature and extent of the impairment.

The Board may rely upon the opinion of the licensed professional(s) retained or designated by the Board in determining whether and/or to what extent to grant the applicant's request.

General Standards and Procedures

Procedure for Review of Special Accommodations Requests

The Executive Director shall review all requests for special testing accommodations that are properly filed in accordance with the Board's policy. Requests that are not timely filed, that are incomplete, or that otherwise do not comply with the requirements of this policy may be rejected from consideration. An applicant may be requested to submit additional information in support of the request. The Board may seek the assistance of a medical, psychological or other authority of the Board's choosing in reviewing a request.

In reviewing a regular request the following procedures will be observed:

- a. After a determination is made, the applicant will be notified in writing at the address provided by the applicant on the petition.
- b. If a request is denied, the applicant will be notified in writing at the address provided by the applicant on the petition.
- c. The applicant may appeal to the Board the denial of a petition or the granting of a petition with different accommodations than requested. The appeal shall be filed within ten days of the applicant's receipt of the notice of denial or notice of accommodations approved. The appeal shall be conducted on the basis of the record and the applicant shall be limited to a written argument in support of the appeal.
- d. The Board shall affirm, reverse or modify the decision of the Executive Director. Written notice of the Board's decision will be sent to the applicant at the address provided by the applicant on the request. The Board's decision on appeal shall be final.

In reviewing an emergency request the following procedures will be observed:

- a. Before deciding the merits of an emergency request, it shall first be determined by the Executive Director whether the request qualifies as an emergency request under the Board's policy. If it does not qualify as an emergency, the Board may deny the request.
- b. The request may be denied if it is not practicable in the time remaining before the examination:
 - i. To arrange special accommodations that would provide testing conditions that are reasonable and comparable to those conditions provided to other applicants; or
 - ii. For the Board to take all steps reasonable and necessary for it to reach a fair determination on the merits of the request before the examination.
- c. A determination shall be made on the emergency request and the applicant will be notified of the determination as soon as reasonable.
- d. The decision on an emergency request shall be final and is not appealable.