State of Illinois
Supreme Court

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 8th day of September, 2014.

Present: Rita B. Garman, Chief Justice

Justice Charles E. Freeman
Justice Thomas L. Kilbride
Justice Anne M. Burke
Justice Robert R. Thomas
Justice Lloyd A. Karmeier
Justice Mary Jane Theis

M.R. 11262

In re: Rules of Procedure for the Board of Admissions to the Bar and Committees on Character and Fitness

Order

Effective immediately, the amendments to the Rules of Procedure proposed by the Board of Admissions to the Bar and the Committees on Character and Fitness for the proper performance of their respective functions are approved, as contained in the attachment to this order.

Order entered by the Court.

SEAL OF THE SUPREME COURT
STATE OF ILLINOIS
AUG. 26. 1818

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court this 12th day of September, 2014.

Carolyn Taft Grosboll

Clerk,
Supreme Court of the State of Illinois.

FILED

SEP 12 2014

SUPREME COURT CLERK

RULES OF PROCEDURE

BOARD OF ADMISSIONS TO THE BAR
AND
THE COMMITTEES ON CHARACTER AND FITNESS
OF
THE ILLINOIS SUPREME COURT

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GLOSSARY OF TERMS

Applicant(s) or applicant(s): Persons applying for full or limited admission to the Illinois bar under Supreme Court Rules 704, 705, 712, 713, 715, 716, 717, or 719.

ARDC: The Illinois Attorney Registration and Disciplinary Commission.

Administrator: The Administrator of the Illinois Attorney Registration and Disciplinary Commission.

Board: The Illinois Board of Admissions to the Bar.

Committee or Committees: One or more of the five Committees on Character and Fitness for the five Appellate Court Districts of the Illinois Supreme Court.

Court: The Illinois Supreme Court.

Director: The Director of Administration of the Illinois Board of Admissions to the Bar.

District: The geographical boundary of one of the five Appellate Court Districts of the Illinois Supreme Court.

NCBE: The National Conference of Bar Examiners.

Rule(s): The Rules of Procedure herein.

RULE 1. CHARACTER AND FITNESS COMMITTEES

1.1. Appointment and term. The appointment and terms of the members of the Committees on Character and Fitness for the five Judicial Districts shall be as provided by Supreme Court Rule 708(a). Any member whose term has expired and who has an uncompleted assignment as a member of an Inquiry Panel or a Hearing Panel may, at the discretion of the Committee Chairperson, continue to serve until conclusion of the assignment.

1.2. Mandatory annual meeting. No less than once each calendar year, the members of each Committee shall meet in person to consider and review the Committee's pending matters, objectives, and work for the ensuing year. The meeting shall be scheduled in advance by the Chairperson of the Committee with assistance from the Board's staff in Springfield.

1.3. Expenses of the Committees. Subject to the prior approval of the Board, all reasonable costs and expenses of the Committees shall be reimbursed by the Board.

RULE 2. DIRECTOR OF ADMINISTRATION

2.1. Director of Administration. The Board shall appoint a Director of Administration, who, subject to the Board's supervision, shall oversee the administration of all aspects of bar admissions, including the character and fitness process. The Director shall receive such compensation as the Board authorizes.

2.2. Duties of Director. Subject to the Board's direction, the Director shall: (1) conduct examinations on academic qualification and professional responsibility in accordance with Supreme Court Rule 704; (2) receive, process, investigate, and review all materials, documentation, and information submitted by and concerning all applicants for admission, including limited admission, to the bar; (3) maintain the records of the Character and Fitness Committees and assist each Committee in its investigation and evaluation of applicants; (4) employ, at such compensation as may be authorized by the Board, such administrative, clerical, investigative, and legal personnel as may be necessary for the efficient conduct of the office; (5) discharge any such personnel whose performance is unsatisfactory; and (6) maintain such records, make such reports, and perform such other duties as may be required by the Board.

RULE 3. CHARACTER & FITNESS REGISTRATION

3.1. Registration. At the time of making application to the bar on any basis permitted by the Supreme Court Rules, an applicant shall submit to the Board at its office in Springfield a character and fitness registration in the form prescribed by the Board.

3.2. Character & Fitness Questionnaire. Every applicant shall register his or her character and fitness by submitting a completed Character & Fitness Questionnaire together with such additional proofs and documentation as the Board may require; such registration shall be accompanied by the filing fee provided by Supreme Court Rule 706(a).

3.3. Character & Fitness Update. Every applicant shall submit a completed Character & Fitness Update as a supplement to the Character & Fitness Questionnaire he or she most recently filed upon the request of the Board or the Committee as well as under the following circumstances:

(a) 9 or more months have elapsed between the date an applicant was recommended for certification by the Committee and the date the applicant is otherwise eligible for admission to the bar;

(b) 9 or more months have elapsed between the date an applicant filed his or her most recent Character & Fitness Questionnaire and the date the applicant submits a written request for reactivation of his or her application pursuant to Rule 10.2;

(c) an applicant requests a hearing pursuant to Rule 8.3c.;

(d) an applicant is notified that his or her petition for new hearing has been granted pursuant to Rule 13.5; and

(e) an applicant who previously registered for an Illinois bar examination makes application for a subsequent bar examination; *provided, however,* that if three or more years have elapsed since the applicant last filed a Character & Fitness Questionnaire, such applicant shall again file the Character & Fitness Questionnaire rather than a Character & Fitness Update.

3.4. Continuing obligation to report. Every applicant has a continuing obligation to report promptly to the Board any change or addition to the information provided in his or her Character & Fitness Questionnaire and Character & Fitness Update, including without limitation changes in address, email address, phone number(s), and employment, as well as criminal charges, disciplinary proceedings, traffic violations, parking violations not paid on receipt, and any other occurrence or event that could bear in any way upon character and fitness or the ability of the Board to communicate with the applicant, or any person or entity named in his or her application.

RULE 4. APPLICATION TO TAKE THE BAR EXAM

Every applicant for the Illinois bar examination shall file with the Board at its office in Springfield an application to take the bar examination in the form prescribed by the Board. Applications shall be filed, and fees paid, as provided in Supreme Court Rule 706.

RULE 5. PROCESSING OF CHARACTER AND FITNESS REGISTRATIONS

With regard to each Character & Fitness Questionnaire and Character & Fitness Update received, the Director shall cause a character investigation and report to be prepared by the transmittal of requests for pertinent information to appropriate persons and entities, including but not limited to employers, former employers, colleges and universities, law schools, other bar admitting authorities, courts, law enforcement agencies, regulatory agencies, creditors, credit reporting agencies, former spouses, and character references.

RULE 6. CHARACTER AND FITNESS REQUIREMENTS

6.1. Committee recommendation and burden of proof. A Committee shall determine whether to recommend to the Board that an applicant presently possesses the requisite character and fitness for admission to the practice of law. If a Committee deems it necessary or appropriate under the circumstances, it shall conduct further investigation of an applicant before ascertaining his or her character and fitness. An applicant has the burden to prove by clear and convincing evidence that he or she has the requisite character and fitness for admission to the practice of law.

6.2. Basis for recommendation. An applicant may be recommended for certification to the Board if a Committee determines that his or her record of conduct demonstrates that he or she meets the essential eligibility requirements for the practice of law and justifies the trust of clients, adversaries, courts and others with respect to the professional duties owed to them. A record manifesting a failure to meet the essential eligibility requirements, including, inter alia, a deficiency in the honesty, trustworthiness, diligence, or reliability of an applicant may constitute a basis for denial of admission.

6.3. Essential eligibility requirements. The essential eligibility requirements for the practice of law include the following: (1) the ability to learn, to recall what has been learned, to reason, and to analyze; (2) the ability to communicate clearly and logically with clients, attorneys, courts, and others; (3) the ability to exercise good judgment in conducting one's professional business; (4) the ability to conduct oneself with a high degree of honesty, integrity, and trustworthiness in all professional relationships and with respect to all legal obligations; (5) the ability to conduct oneself with respect for and in accordance with the law and the Illinois Rules of Professional Conduct; (6) the ability to avoid acts that exhibit disregard for the health, safety, and welfare of others; (7) the ability to conduct oneself diligently and reliably in fulfilling all obligations to clients, attorneys, courts, creditors, and others; (8) the ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; (9) the ability to comply with deadlines and time constraints; and (10) the ability to conduct oneself properly and in a manner that engenders respect for the law and the profession.

6.4. Misconduct. The revelation or discovery of any of the following should be treated as cause for further detailed inquiry before a Committee decides whether the applicant possesses the requisite character and fitness to practice law: (a) unlawful conduct; (b) academic misconduct; (c) making false statements, including omissions; (d) misconduct in employment; (e) acts involving dishonesty, fraud, deceit or misrepresentation; (f) abuse of legal process; (g) neglect of financial responsibilities; (h) neglect of professional obligations; (i) violation of an order of a court; (j) evidence of conduct indicating instability or impaired judgment; (k) denial of admission to the bar in another jurisdiction on character and fitness grounds; (l) disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction; (m) acts constituting the unauthorized practice of law; and (n) failure to comply with the continuing duty of full disclosure to the Board and the Committees subsequent to the date of application.

6.5. Factors in weighing prior misconduct. In determining whether to recommend to the Board that the present character and fitness of an applicant qualifies him or her for admission to the practice of law, a Committee shall consider the following factors in assigning weight and significance to prior misconduct: (a) age at the time of the conduct; (b) recency of the conduct; (c) reliability of the information concerning the conduct; (d) seriousness of the conduct; (e) factors underlying the conduct; (f) cumulative effect of the conduct; (g) ability and willingness to accept responsibility for the conduct; (h) candor in the admissions process; (i) materiality of any omissions or misrepresentations; (j) evidence of rehabilitation; and (k) positive social contribution since the conduct.

6.6. Transmittal of certification to the Court. Provided that all other conditions for admission have been met, upon receipt from a Committee of a recommendation for certification pursuant to these Rules, the Board shall transmit such certification to the Supreme Court together with any additional information or recommendation the Board may deem appropriate. A copy of the Board's recommendation, if any, shall be mailed to the applicant, his or her counsel, if any, and to the Committee Chairperson.

RULE 7. CONDITIONAL ADMISSION

7.1. Conditional Admission. In its sole discretion, a Committee may recommend to the Board that an applicant be admitted to the bar on a conditional basis in accordance with these Rules. The terms and conditions of a recommendation for conditional admission shall be set forth in a written Consent Agreement signed by the Committee, the applicant, and the Director. An applicant may be considered or recommended for conditional admission at the discretion of the Committee.

7.2. Limited purpose of conditional admission. As provided by Rule 7.3, conditional admission may be employed to permit an applicant who currently satisfies character and fitness requirements to practice law while his or her continued participation in an ongoing course of treatment or remediation for previous misconduct or unfitness is monitored to protect the public. Conditional admission is neither to be used as a method of achieving fitness nor as a method of monitoring the behavior of all applicants who have rehabilitated themselves from misconduct or unfitness. Conditional admission may be employed only when an applicant has been engaged in a sustained and effective course of treatment or remediation for a period of time sufficient to demonstrate his or her commitment and progress but not yet sufficient to render unlikely a recurrence of the misconduct or unfitness.

7.3. Limited circumstances under which conditional admission may be considered. A Committee may recommend that an applicant be admitted to the bar conditioned on the applicant's compliance with relevant conditions prescribed by that Committee if the applicant currently satisfies all requirements for admission to the bar and possesses the requisite good moral character and fitness for admission, *except that* he or she is engaged in a sustained and effective course of treatment for or remediation of

(a) substance abuse or dependence;
(b) a diagnosed mental or physical impairment that, should it reoccur, would likely impair the applicant's ability to practice law or pose a threat to the public; or
(c) neglect of financial affairs

that previously rendered him or her unfit for admission to the bar, *and* the applicant has been engaged in such course of treatment or remediation for no fewer than 6 continuous months, if the subject of treatment is substance abuse or dependence or mental or physical impairment, and no fewer than 3 continuous months if the subject of remediation is neglect of financial affairs. Absent recent lapses, recent failures, or evidence that a lapse or failure is presently likely to occur, an applicant who has engaged in such sustained and effective course of treatment or remediation for at least 24 continuous months may not be conditionally admitted.

7.4. Recommendation of Inquiry Panel or Hearing Panel.

7.4a. A recommendation that an applicant be admitted to the bar on a conditional basis can be made only after that applicant has personally met with all members of an Inquiry Panel appointed in accordance with these Rules. A majority of the Inquiry Panel shall constitute a quorum, and the concurrence of a majority shall be necessary to a recommendation.

7.4b. A recommendation for conditional admission may also be made by the members of a Hearing Panel; provided, however, that the applicant did not decline to consider or consent to conditional admission at the Inquiry Panel level. Four members of the Hearing Panel shall constitute a quorum, and the concurrence of a majority of the panel as a whole shall be necessary to a recommendation.

7.5. Report of recommendation of Inquiry Panel to full Committee. In the event a majority of the members of an Inquiry Panel votes to recommend the conditional admission of an applicant, the Inquiry Panel shall report to the full Committee the vote, the matters of concern, the nature, substance, and duration of the course of treatment or remediation in which the applicant is engaged, complete and detailed information regarding the applicant's progress in connection therewith including any lapses or failures, the panel's general recommendation regarding the terms and conditions of admission, any additional facts relevant to the recommendation, and confirmation of the applicant's consent to admission on a conditional basis. The full Committee shall then determine whether the recommendation of the Inquiry Panel should be affirmed or denied.

7.6. Review of recommendation of Inquiry Panel by full Committee and preparation of written report.

7.6a. If the report to the full Committee is made and discussed at a meeting of the full Committee, members of the Inquiry Panel may participate in the discussion of the

matter, but shall not be entitled to vote. Twelve members of the Committee who were not members of the Inquiry Panel shall constitute a quorum, and the concurrence of a majority of the members who are present and entitled to vote shall be necessary to a decision. If the recommendation of the Inquiry Panel is affirmed, within 21 days after such affirmation the Chairperson of the Inquiry Panel shall prepare and submit to the Director a written report containing all of the information required by Rule 7.5. In the event the vote is split and the Chairperson of the Inquiry Panel is not in the majority, then the senior member of the majority shall prepare and submit the written report.

7.6b. If the report to the full Committee is *not* made and discussed at a meeting of the full Committee, within 21 days after the vote of the Inquiry Panel, the Chairperson of the Inquiry Panel shall prepare and submit to the Director a written report containing all of the information required by Rule 7.5. In the event the vote is split and the Chairperson of the Inquiry Panel is not in the majority, then the senior member of the majority shall prepare and submit the written report. The Director shall then forward the report to all remaining members of the Committee, along with a request for the vote of each member as to whether the recommendation of the panel should be affirmed or denied. The concurrence of a majority of the remaining members of the Committee shall be necessary to a decision.

7.6c. If the recommendation of the Inquiry Panel is denied by the full Committee, within 21 days of such denial, the Chairperson or Vice-Chairperson of the full Committee shall prepare and submit to the Director a brief written report containing the reason for the denial. Thereafter, the applicant shall be notified in writing of the Committee's declination to certify in accordance with Rule 8.3c., and the application may thereafter be further considered in accordance with Rules 9.1. *et seq*.

7.7. Preparation and execution of Consent Agreement. Upon receipt of the written report and recommendation of an Inquiry Panel for conditional admission and its affirmation by the full Committee as hereinabove provided, or upon receipt of the written report and recommendation for conditional admission of a Hearing Panel, the Director shall prepare and submit to the Chairperson of the panel that recommended conditional admission the Consent Agreement setting forth the terms and conditions of admission. The original Consent Agreement shall be signed by applicant, the panel member who signed the report of the Inquiry Panel or Hearing Panel recommending conditional admission, and the Director.

7.8. Authorized conditions of admissio*n*. An applicant's admission may be conditioned on the applicant's submitting to specified alcohol, drug, or mental health treatment; medical, psychological, or psychiatric care; participation in group therapy or support; debt management counseling; random chemical screening; and supervision, monitoring, mentoring, or other conditions deemed appropriate by a Committee. The conditions shall be tailored to deter and detect conduct or conditions that pose a risk to clients or the public, to ensure continued abstinence, payment, treatment, counseling, and other support and shall, when appropriate,

take into consideration the recommendations of qualified professionals regarding treatment and remediation.

7.9. Length of conditional period. The period of conditional admission shall not exceed 24 months, unless the Court orders otherwise. The filing of a petition to extend the period or a petition to revoke admission shall extend the period of conditional admission until the Court enters a final order on the petition.

7.10. Submission of recommendation, report and Consent Agreement to the Court. The Director shall submit to the Court copies of the recommendation and report of the Committee, the executed Consent Agreement, the Board's certification that the applicant is otherwise qualified for admission to the bar, relevant information from the applicant's character and fitness file, and any additional information or recommendation the Board deems appropriate. A copy of the executed Consent Agreement and the Board's recommendation, if any, shall be mailed to the applicant.

7.11. Court review of recommendation, report and Consent Agreement.

7.11a. If the Court determines that the applicant qualifies for admission on the terms and conditions set forth in the Consent Agreement, it shall enter an Order requiring the applicant to comply with such terms and conditions for the period specified immediately following the date of his or her admission to the bar. In this event, copies of the Order, the executed Consent Agreement, and the recommendation and report of the Committee shall be mailed to ARDC.

7.11b. If the Court denies the recommendation for conditional admission, six months after the date of the denial the applicant may file with the Board a supplement to his or her previous Character & Fitness Questionnaire along with his or her personal affidavit describing the extent, if any, to which he or she has in the interim engaged in a course of treatment for, or remediation of, the misconduct or unfitness that was the basis of the recommendation. Following investigation and report of the supplemental materials, the application shall be considered further in accordance with these Rules by the Inquiry Panel or Hearing Panel that previously recommended conditional admission.

7.12. Monitoring compliance with Consent Agreement. If the applicant is conditionally admitted to the bar, the Administrator of ARDC shall monitor his or her compliance with the terms and conditions of the Consent Agreement throughout the period of conditional admission. The Administrator may take such action as is necessary to monitor compliance with the terms of the Consent Agreement, including without limitation referral for monitoring by a lawyer assistance program or other monitoring authority, requiring the conditionally admitted lawyer to make periodic appearances before a monitoring agent or entity, requiring the lawyer to submit physical or written evidence or other verification of compliance with the Consent Agreement, and requiring the lawyer to submit to an assessment by a medical professional.

7.13. Reporting changed circumstances or noncompliance with Consent Agreement.

7.13a. When the Administrator or the conditionally admitted lawyer identifies a change in circumstances that impacts the efficacy of the terms and conditions of the Consent Agreement, either party may report the change to the Court and petition the Court to modify the terms or conditions affected by the changed circumstances.

7.13b. When a conditionally admitted lawyer fails to comply with the Consent Agreement, the Administrator shall, where warranted, file with the Court a report of the noncompliance and a petition for revocation, modification, or extension of conditional admission. The petition shall be served upon the lawyer, who shall file a response within 21 days following service of the petition. If the Court determines there is a material dispute of fact, the Court shall refer the case to a panel of the ARDC Hearing Board, which shall set the matter for hearing on a date within 90 days of the Order referring the case to the panel. The Administrator must prove the violation(s) of the Consent Agreement by a preponderance of the evidence. The Hearing Board panel shall resolve all disputes of fact and file its findings with the Court within 45 days of the date the hearing concludes. Upon consideration of the pleadings and, where applicable, the findings of the Hearing Board panel, the Court shall determine whether to continue or revoke the lawyer's conditional admission license and, if not revoked, whether to modify conditions or extend the period of conditional admission.

7.14. Reapplication following revocation of conditional admission license. An applicant whose conditional admission license has been revoked may reapply for admission to the bar, but not within two years of the Order revoking the conditional admission license, unless the Court orders otherwise. The applicant shall file a Character & Fitness Questionnaire together with such additional proofs and documentation as the Board may require and his or her personal affidavit describing the extent, if any, to which he or she has in the interim engaged in a course of treatment for, or remediation of, the misconduct or unfitness that was the basis of revocation of the conditional admission license. Following preparation of a character and fitness investigation and report in accordance with these Rules, the reapplication and materials shall be assigned for character and fitness review directly to an Inquiry Panel, if the original recommendation for conditional admission was made at the Inquiry Panel level, or to a Hearing Panel, if the original recommendation for conditional admission was made by a Hearing Panel. To the extent possible, the original Inquiry Panel or Hearing Panel shall be reconstituted; any unavailable member of the original panel shall be replaced by another member of the Committee.

7.15. Costs of conditional admission. The applicant shall promptly pay directly or reimburse the Board for costs incurred for evaluation and testing in connection with Committee consideration of substance abuse or dependency, diagnosed mental impairment, or diagnosed medical disorder prior to the submission of a recommendation for conditional admission to the Court. The Board may agree to postpone reimbursement for such costs on the basis of compelling evidence of inability to pay; provided, however, in that event the repayment of such

costs shall be incorporated into the Consent Agreement as a condition of compliance. Costs incurred after the applicant is conditionally admitted to the bar shall be defined and paid in accordance with Supreme Court Rule 773.

7.16. Confidentiality. All information related to the conditional admission of an applicant, including without limitation the fact of conditional admission and the existence and terms of the written Consent Agreement, shall be confidential. An Order of the Court revoking a conditional admission license, however, shall be a matter of public record.

RULE 8. CONSIDERATION OF CHARACTER AND FITNESS REGISTRATIONS BY DIRECTOR, COMMITTEE MEMBER, AND INQUIRY PANEL

8.1. Review by Director. At the direction of the Board, the Director with the assistance of Board staff shall conduct an initial review of all character and fitness registrations.

8.1a. Recommendation for certification. If the character and fitness registration, investigation, and report of an applicant for admission or limited admission to the bar raise no character and fitness concerns, as determined by the Director after review of said materials, the Director may recommend to the Board the certification of the applicant; in this event, upon the request of any Committee, the Director shall provide monthly notice to the Committee of all such recommendations.

8.1b. Referral to Committee. If the character and fitness registration, investigation, and report of an applicant for admission or limited admission to the bar raise character and fitness concerns, as determined by the Director after review of said materials, the Director shall refer the applicant's file for evaluation in accordance with Supreme Court Rules 708 and 709 to a member of the Committee in the District in which the applicant receives mail or as otherwise determined by the Board; *provided, however*, that a character and fitness registration falling within the purview of Supreme Court Rule 704(b) or otherwise containing matters of significant character and fitness concern shall instead be referred directly to an Inquiry Panel, the members and Chairperson of which may be appointed by the Committee Chairperson of that District or by the Director, for evaluation and review as provided in Rule 8.3. *et seq*. Character and fitness registrations that have been assigned to a member of the Committee or to an Inquiry Panel in one District shall not be reassigned to another District.

8.2. Review by Committee member. Each applicant file assigned to a Committee member shall be reviewed by the member, and the applicant shall be required to appear in person before the member to discuss the character and fitness matter(s) of concern raised by the materials submitted and/or gathered in connection with the applicant's character and fitness registration. The applicant shall provide to the member any further information or documentation requested and shall cooperate with any further investigation undertaken by the member.

8.2a. Recommendation for certification. The Committee member who has reviewed the character and fitness registration of an applicant may recommend to the Board the certification of the applicant. The applicant may thereafter be recommended by the Board for admission or limited admission to the bar if all other requirements for admission have been met.

8.2b. Referral to Inquiry Panel. If a Committee member is not prepared to recommend the certification of an applicant, the Chairperson of the Committee shall assign the applicant's file to an Inquiry Panel for further review and examination.

8.3. Review by Inquiry Panel. Each member of the Inquiry Panel shall review the applicant file, and the applicant shall be required to appear in person before all members of the panel to discuss the character and fitness matters of concern raised by the materials submitted and gathered in connection with the applicant's character and fitness registration. The applicant shall provide to the panel any further information or documentation requested and shall cooperate with any further investigation undertaken by the panel. The Inquiry Panel shall consist of the member to whom the matter was originally assigned, as panel Chairperson, and two additional Committee members appointed by the Committee Chairperson. A majority of the Inquiry Panel shall constitute a quorum, and the concurrence of a majority shall be necessary to a decision.

8.3a. Declination to certify. In the event a majority of the members of an Inquiry Panel votes to withhold the certification of an applicant, within 21 days after such vote, the Chairperson of the Inquiry Panel shall prepare and submit to the Director a written report advising of the Inquiry Panel vote, the matters of concern, and the basis for the declination to certify. In the event the vote is split and the Chairperson of the Inquiry Panel is not in the majority, then the senior member of the majority shall prepare and submit the written report.

8.3b. Recommendation for certification to full Committee and preparation of written report. In the event a majority of the Inquiry Panel votes to recommend certification of an applicant to the Board, the panel shall report the vote, the matters of concern, and the basis for the recommendation for certification to the full Committee. The full Committee shall then determine whether the recommendation of the Inquiry Panel should be affirmed or denied.

8.3b.i. Vote of full Committee at meeting. If the report is made and discussed at a meeting of the full Committee, members of the Inquiry Panel may participate in the discussion of the matter, but shall not be entitled to vote. Twelve members of the Committee who were not members of the Inquiry Panel shall constitute a quorum, and the concurrence of a majority of the members who are present and entitled to vote shall be necessary to a decision. If the recommendation of the Inquiry Panel is affirmed, within 21 days after such affirmation, the Chairperson of the Inquiry Panel shall prepare and submit to the

Director a written report advising of the matters of concern, the basis for the recommendation for certification, and the full Committee's affirmation of the recommendation of the panel. In the event the vote is split and the Chairperson of the Inquiry Panel is not in the majority, then the senior member of the Inquiry Panel shall prepare and submit the written report.

8.3b.ii. Vote of full Committee without meeting. If the report is not made and discussed at a meeting of the full Committee, within 21 days after the vote of the Inquiry Panel, the Chairperson of the Inquiry Panel shall prepare and submit to the Director a written report advising of the Inquiry Panel vote, the matters of concern, and the basis for the recommendation for certification. In the event the vote is split and the Chairperson of the Inquiry Panel is not in the majority, then the senior member of the Inquiry Panel shall prepare and submit the written report. The Director shall then forward the written report to all remaining members of the Committee, along with a request for the vote of each member as to whether the recommendation of the Panel should be affirmed or denied. The concurrence of a majority of the remaining members of the Committee shall be necessary to a decision.

8.3b.iii. Affirmation of full Committee to recommend certification. If the recommendation of an Inquiry Panel is affirmed by the full Committee, upon receipt by the Director of the written Inquiry Panel report recommending certification and its affirmation by the full Committee as herein provided, the applicant may thereafter be recommended by the Board for admission to the bar if all other admission requirements have been met.

8.3b.iv. Declination of full Committee to recommend certification. If the recommendation of the Inquiry Panel is denied by the full Committee, within 21 days after such denial, the Chairperson or Vice-Chairperson of the Committee shall prepare and submit to the Director a written report advising of the matters of concern and the basis for the declination to certify.

8.3c. Notice to applicant of declination to certify after Inquiry Panel and of right to a hearing. Upon receipt by the Director of a written report advising of an Inquiry Panel's vote to withhold certification or a written report advising of a vote of the full Committee to deny an Inquiry Panel's recommendation for certification, the applicant shall thereafter be notified in writing of the Committee's declination to certify and provided with a copy of the report of the Inquiry Panel or of the Committee. The notice shall also advise of the right of the applicant to submit a written request for hearing within 21 days of the date of the mailing of the notice and include instructions for doing so. If the applicant fails properly to request a hearing within 21 days of the date of the mailing of the notice, his or her application shall be placed on inactive status and made subject to the requirements of Rule 10.2.

RULE 9. CONSIDERATION OF CHARACTER AND FITNESS REGISTRATIONS BY HEARING PANEL

9.1 De novo hearing. In the event an applicant properly requests a hearing pursuant to Rule 8.3c., he or she will be allowed de novo review of his or her character and fitness registration before a Hearing Panel.

9.2. Character & Fitness Update and supplemental investigation. An applicant who has properly requested a hearing pursuant to Rule 8.3c. shall promptly complete and file a Character & Fitness Update pursuant to Rule 3.3c. Upon receipt of the properly completed and filed Character & Fitness Update, the Director shall cause a supplemental character investigation and report to be prepared pursuant to Rule 5. The Director shall then notify the Chairperson of the Committee of the request for hearing and request the appointment of a Hearing Panel.

9.3. Appointment of Hearing Panel. The Chairperson of the Committee shall appoint a Hearing Panel from the remaining members of the Committee, none of whom have been members of the Inquiry Panel. A hearing will thereafter be scheduled on a date certain no fewer than 75 days after receipt of the properly completed and filed Character & Fitness Update. The Chairperson of the Committee shall chair the Hearing Panel. If unable to attend the hearing, the Chairperson shall designate the Vice-Chairperson of the Committee to serve as Chairperson in his or her stead. The Hearing Panel shall consist of five members of the Committee, and four members of the panel shall constitute a quorum.

9.4. Notice of hearing. No fewer than 21 days prior to the hearing, the Hearing Panel shall cause a Notice to be sent to the applicant by mail containing:

1. the date, time, and place of such hearing;
2. the disclosure of matters adverse to the applicant;
3. if such matters were based in full or in part upon statements from other persons, the names of such persons;
4. confirmation of the right of the applicant to be represented by counsel, at his or her own expense, to examine and cross-examine witnesses, to adduce evidence bearing upon the aforesaid adverse matters and upon his or her character and fitness, and for such purposes to make reasonable use of the Committee's subpoena powers under Rule 9.7;
5. confirmation of the right of the applicant or of his or her counsel, if any, to inspect prior to the hearing his or her character and fitness file; and
6. a copy of these Rules.

9.5. Right to public hearing. The hearing shall be private unless the applicant requests that it be public.

9.6. Counsel to present matters adverse. Subject to the approval of the Board, the Director shall appoint counsel from among the members of the bar to prepare and present the matters adverse to the applicant.

9.7. Discovery. At the reasonable discretion of the Chairperson of the Hearing Panel, the Committee shall, upon request of any member of the Hearing Panel or of the applicant, apply to the Clerk of the Supreme Court for the issuance of subpoenas or writs for the taking of testimony at the hearing or upon evidence depositions and shall, upon like request, report to said Court the failure or refusal of any person to attend and testify in response to any such subpoena or writ. The taking of depositions shall be limited to evidence depositions where permitted by the Committee under the criteria set forth in Supreme Court Rule 212(b).

9.8. Pre-hearing conference and motion practice. The Chairperson of the Hearing Panel shall have reasonable discretion to hold a pre-hearing conference. Any such pre-hearing conference shall be held no fewer than seven days before the hearing. The Chairperson shall conduct pre-hearing and post-hearing motion practice. Motions by the applicant must be served on the Chairperson, on Rule 9.6 Counsel, and on the Board. Motions to quash must be served on the Chairperson, on the Board, on the person or entity whose testimony the motion seeks to quash, on the applicant, if the motion is not filed by the applicant, and on Rule 9.6 Counsel, if the motion is not filed by Rule 9.6 Counsel. The Chairperson shall have reasonable discretion in serving as the adjudicator.

9.9. Evidence. A Hearing Panel shall not be bound by the formal rules of evidence. It may in its discretion take evidence in other than testimonial form, having the right to rely upon records and other materials furnished in response to its requests for assistance in its inquiries pursuant to these Rules and Supreme Court Rule 709. It may further in its discretion determine whether any evidence to be taken in testimonial form shall be taken in person at the hearing or upon deposition, but all testimonial evidence shall, in either event, be taken under oath. The matters to be considered by a Hearing Panel need not be limited to the matters of concern set forth in the notice to the applicant of the matters adverse to the applicant. A complete stenographic record of the hearing shall be kept, and a transcript may be ordered by the applicant at his or her expense.

9.10. Post-hearing deliberations. Hearing Panel members shall confer and deliberate among themselves at the conclusion of a hearing and subsequent thereto as necessary. The panel may vote at the conclusion of a hearing or may defer the vote to a later date not more than 45 days after conclusion of the hearing or 45 days after the record of the hearing is closed, whichever shall later occur, at which time a vote of the Hearing Panel shall be taken. The members may vote by mail, email, fax, or telephone. The applicant shall be recommended for certification to the Board only upon receiving at least three affirmative votes.

9.11. Preparation of Findings and Conclusions. Within 45 days of the vote of a Hearing Panel, or, in the event of special circumstances, within such additional period of time as may be approved by the full Committee, the Chairperson of the Hearing Panel shall cause to be

prepared and submitted to the Director the Findings and Conclusions of the Committee together with a recommendation for or against the certification of the applicant. The Findings and Conclusions shall contain a synopsis of the contents of the application, a full and fair explication of each of the matters of concern, and, with regard to each such matter, the basis for the recommendation of certification or declination of certification. If the vote of the panel is less than unanimous, the Findings and Conclusions shall include a clear and concise statement of the concern(s) and conclusion(s) of the minority.

9.11a. Non-unanimous recommendation. In the event the vote of a Hearing Panel is less than unanimous and the Chairperson of that Hearing Panel is not in the majority, then the senior member of the majority shall oversee the preparation of, and sign, the Findings and Conclusions of the Committee.

9.11b. Preparation of minority opinion. Members of a Hearing Panel who wish to write and sign a separate concurring or minority opinion may do so, and the opinion will be attached to the Findings and Conclusions of the Committee submitted therewith.

9.12. Recommendation for certification to the Court. If a Hearing Panel shall vote to recommend the certification of an applicant, the Director shall thereafter transmit the prepared Findings and Conclusions of the Committee to the Court together with any recommendation and information the Board may deem appropriate to submit. A copy of the Findings and Conclusions of the Committee and the Board's recommendation, if any, shall be mailed to that applicant and to his or her counsel, if any; a copy of any Board recommendation shall also be submitted to the Committee.

9.13. Declination to recommend certification. If the Hearing Panel shall vote not to recommend the certification of an applicant, the Findings and Conclusions of the Committee shall thereafter be served on that applicant by mail to the last address he or she designated for receipt of notices, and the date of service shall be the date of mailing; a copy of the Findings and Conclusions of the Committee shall also be mailed to counsel for the applicant, if any.

9.14. Confidentiality. Prior to the mailing of the written Findings and Conclusions of the Committee to an applicant, the deliberation and decision of the Hearing Panel shall remain confidential.

RULE 10. STATUS OF CERTAIN CHARACTER AND FITNESS REGISTRATIONS

10.1. Failure of applicant to pass examination. Each recommendation for the certification of an applicant for admission on examination prior to the announcement of the results of such examination shall be a tentative recommendation. At the discretion of a Committee, in the event an applicant for admission upon examination has failed to pass the examination, no further action as to such applicant need be taken thereafter by that Committee or any Panel thereof until such time as the Committee shall be advised that the applicant has passed a subsequent examination.

10.2. Inactivity of applicant. The character and fitness registration of an applicant who without reasonable explanation has failed to provide requested information or documentation for a period of more than 90 days shall be placed on inactive status. Such registration may be returned to active status only upon the written request of the applicant, which request shall attach all previously requested information and documentation and satisfactorily address all previously outstanding matters of character and fitness concern. If nine or more months have passed since the date an applicant filed his or her most recent Character & Fitness Questionnaire, then that applicant must also properly complete and file a Character & Fitness Update pursuant to Rule 3.3(b).

RULE 11. CONFIDENTIALITY

All information received by the Board or a Committee, or any agent of the Board or Committee, pertaining to an applicant is subject to a quasi-judicial privilege. Such information shall be held in confidence and shall not be disclosed except as follows: (a) information, such as name, date of birth, and Social Security number of an applicant and the date of his or her application, may be made available for placement in a national data bank operated by or on behalf of NCBE; (b) information released in response to a subpoena from ARDC in connection with disciplinary proceedings, reinstatement proceedings, or investigations regarding the unauthorized practice of law; (c) information in reports filed with the Court; (d) information released in response to a written request from NCBE or other bar admitting authorities when accompanied by an authorization for the release of such information duly executed by the person about whom such information is sought; (e) information concerning an applicant released in response to a subpoena issued in connection with the criminal investigation or prosecution of such applicant; (f) information in the form of the applicant's character and fitness file disclosed to the applicant and his or her counsel, if any, pursuant to Rule 9.4 prior to a hearing, which documents shall thereafter become a part of the record before the Court in the event the applicant files a petition for review pursuant to Supreme Court Rule 708(h).

RULE 12. APPEALS

Any applicant who has received an unfavorable recommendation from a Committee may petition the Court for review within 35 days after service of that Committee's decision upon the applicant in accordance with the provisions in Supreme Court Rule 708(h).

RULE 13. NEW HEARINGS

13.1. New hearing. Any applicant who has been denied certification as hereinabove provided may petition the Committee issuing the denial for a new hearing.

13.2. Timing of the petition. A petition for a new hearing may not be filed within two years of the date a Committee mailed its Findings and Conclusions to an applicant, unless a shorter time is allowed by the decision of that Committee. If an applicant petitions the Court for relief pursuant to Rule 12, and the Court denies the petition, the foregoing two year period

commences on the date of the Order of the Court, unless a shorter time is allowed by the Court. If a Committee recommends the certification of an applicant who is subsequently denied admission by the Court, the applicant may petition said Committee that conducted the original hearing for a new hearing but not within two years of the date of the Order of denial, unless a shorter time is allowed by the Court.

13.3. Requirements for consideration. A petition for a new hearing shall not be considered unless it: (1) addresses the grounds for denial of certification in the Findings and Conclusions of the applicant's most recent Hearing Panel or, if applicable, in the most recent opinion or order of the Court; (2) includes a showing of the activities and conduct of the applicant since the last action of the Committee or of the Court; and (3) provides an overarching context of how the showing in (2) informs the discourse in (1).

13.4. Consideration of Committee. A Committee may deny a petition for new hearing without hearing testimony of witnesses if the petition does not meet the foregoing requirements of this Rule nor sets forth substantial new matter that would *prima facie* overcome the reasons for the previous denial and establish that the applicant now has the good moral character and general fitness to practice law that would justify certification. If a Committee determines that the petition complies with this Rule and sets forth such substantial new matter, the petition shall be granted. Such determination shall be made by majority vote of a full Committee at a meeting conducted in person or by telephone conference at which a quorum is present within 45 days after service of the petition for new hearing upon that Committee. The members present at the meeting may also vote by mail, email, fax, or telephone.

13.5. Notification, Character & Fitness Update, and supplemental investigation. In the event a petition for new hearing is granted, the applicant shall be so notified by mail, and he or she shall promptly complete and file a Character & Fitness Update pursuant to Rule 3.3(d). Upon receipt of the properly completed and filed Character & Fitness Update, the Director shall cause a supplemental character investigation and report to be prepared pursuant to Rule 5.

13.6. Appointment of new Hearing Panel. The Chairperson of the Committee shall appoint a new Hearing Panel; provided, however, that to the extent possible, the original Hearing Panel shall be reconvened for the purpose of the new hearing. Any unavailable member of the original panel shall be replaced by another member of the Committee. A new hearing shall thereafter be scheduled and held pursuant to the requirements of Rules 9.3 *et seq*.

13.7. Limitation. An applicant shall have 90 days from the date a Committee grants his or her petition for a new hearing to complete and file a Character & Fitness Update, along with all other required documents, unless an extension of not more than an additional 90 days is granted by the Director. A request for an extension of time must be made in writing, setting forth the reasons for the request, and sent to the Director in Springfield. If an applicant fails to file a Character & Fitness Update within the prescribed time period, the grant of his or her petition for a new hearing will be deemed null and void, and the applicant must file a new

petition for new hearing at that time. In all events, if a new hearing fails to take place within one year from the date a Committee grants the petition for a new hearing, then the grant of that petition will be deemed null and void.

RULE 14. SERVICE

All notices, reports, and other documents and items, including the Findings and Conclusions of the Committee, required to be mailed or delivered under these Rules, may be sent by United States mail, postage prepaid, or by any private courier or delivery service approved by the Board, costs prepaid by the sender, to the last address provided by the intended recipient. The date of service is the date of depositing such items in the United States mails or tendering to the courier or delivery service as appropriate.