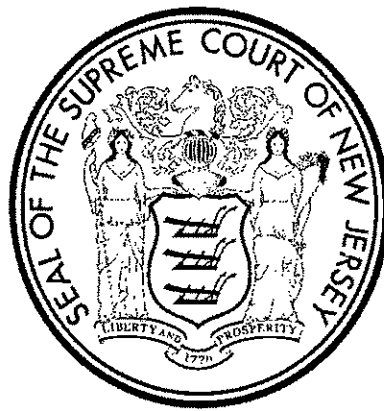


**Supreme Court
Ad Hoc Committee on the
Character Review Process**



**REPORT &
RECOMMENDATIONS**

October 27, 2017

Chair: Associate Justice Anne M. Patterson

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REPORT OF THE AD HOC COMMITTEE ON THE CHARACTER REVIEW PROCESS

I. INTRODUCTION

A. Overview

“Among the most basic conditions precedent to bar admission are ‘good moral character, a capacity for fidelity to the interests of clients, and for fairness and candor in dealing with the courts.’” IMO the Application of Matthews for Admission to the Bar of New Jersey, 94 N.J. 59, 75 (1983) (quoting In re Pennica, 36 N.J. 401, 433 (1962)). For that reason, the Court Rules require candidates for admission to the bar of the State of New Jersey to demonstrate “fitness to practice law,” R. 1:25, and “good character,” R. 1:27-1(a)(2). In interpreting those standards, the Supreme Court has held that “a bar applicant must possess a certain set of traits -- honesty and truthfulness, trustworthiness and reliability, and a professional commitment to the judicial process and the administration of justice.” IMO the Application of Matthews, supra, 94 N.J. at 77. “These personal characteristics are required to ensure that lawyers will serve both their clients and the administration of justice honorably and responsibly.” Ibid. In addition, “applicants must demonstrate through the possession of such qualities of character the ability to adhere to the Disciplinary Rules governing the conduct of attorneys.” Ibid.

Pursuant to Rule 1:25, the New Jersey Supreme Court appoints a Committee on Character comprised of volunteer New Jersey attorneys. The Committee on Character is responsible “to determine the fitness to practice law of each candidate for admission to the bar of the State of New Jersey on the basis of and by reviewing the personal record and reputation of each candidate and, following such review, to certify as such to fitness to the Supreme Court or withhold such certification.” Pursuant to Rule 1:25, the Committee on Character has adopted regulations governing the procedures for this character review process.

In March 2017, the Supreme Court created the Ad Hoc Committee on the Character Review Process (the Ad Hoc Committee) to assess the current character review process and to recommend improvements when appropriate.

In addition, and on a parallel track, the standing Committee on Character recently proposed amendments to its regulations. At the direction of the Supreme Court, those proposed

amendments were published for public comment on April 3, 2017, and remain pending before the Court.

This report presents the findings and recommendations of the Ad Hoc Committee, pursuant to the Supreme Court's charge, and addresses the pending amendments proposed by the Committee on Character to the extent that those amendments are applicable.

B. Purpose/Charge

The Supreme Court charged the Ad Hoc Committee to evaluate the existing character review process, comparing and contrasting that process with the approach in effect in comparable jurisdictions. The Court directed that the Ad Hoc Committee issue a report setting forth findings and recommendations to the Court regarding changes to the process, where appropriate.

In charging the Ad Hoc Committee, the Supreme Court was especially interested in recommendations that may help to expedite the process without undermining the Court's ability to ensure that only candidates with the requisite good character and fitness are admitted to the practice of law.

C. Membership

The Chief Justice of the Supreme Court appointed Associate Justice Anne M. Patterson as Chair of the Ad Hoc Committee, and appointed a diverse group of attorneys whose professional insights and experiences would inform the Ad Hoc Committee's work. The membership included an Assignment Judge; the Statewide Chair of the Committee on Character; designees of the State Bar Association and the Garden State Bar Association; the Clerk of the Supreme Court; representatives of the Supreme Court Clerk's Office and the Administrative Office of the Courts; and a distinguished administrator from a New Jersey law school. Among the members were accomplished practitioners from across the state who have served on the Committee on Character, represented candidates, and advised applicants during the character and fitness review process.¹ A staff attorney in the Supreme Court Clerk's Office was designated to serve as staff to the Ad Hoc Committee.

¹ A complete list of Committee members and their respective associations is included as Exhibit A.

D. Summary of the Deliberative Process and Conclusions

The recommendations were informed by the expertise of the Ad Hoc Committee members as well as information provided by the senior staff of the Bar Admissions Unit and Committee on Character. The Ad Hoc Committee thoughtfully debated the merits of certain suggestions and the challenges and limitations of implementing certain changes.

During the Ad Hoc Committee's deliberative process, the Court asked the Ad Hoc Committee to consider whether the Court should adopt amendments that would authorize stipulation to conditions by consent, a measure proposed by the Committee on Character and generally favored by those who provided public comments. The Ad Hoc Committee expedited its review of that specific issue and recommended that the Court adopt such amendments forthwith. The Ad Hoc Committee submitted to the Court limited proposed amendments regarding the stipulation to conditions by consent. The Court considered the amendments, and, with minor exceptions, adopted the amendments to be effective July 1, 2017.²

In light of the Ad Hoc Committee's interim recommendation regarding stipulation to conditions by consent, and the Court's prior action on that recommendation, this report does not address that resolved matter. Rather, this report summarizes the Ad Hoc Committee's remaining recommendations, which identify steps that can be taken in the short term – and in the months and years ahead – to assist the Court and the Committee on Character in expediting the character review process without undermining the Committee on Character's important work.

Some of the public comments received in response to the Committee on Character's proposed amendments raised broader policy issues related to the substance and scope of information that the Committee on Character considers in its character and fitness review, and/or the standard that it applies in determining whether a candidate has demonstrated fitness to practice law and good character. In addition, some individual members of the Ad Hoc Committee raised similar concerns and suggested changes to the certified statement. In light of the Supreme Court's limited charge to the Ad Hoc Committee that emphasized expediting procedural aspects of the process, the Ad Hoc Committee deems those broader policy issues

² A copy of the Notice to the Bar announcing the adoption of amendments regarding stipulation to conditions by consent is included as Exhibit B.

outside its purview. The Ad Hoc Committee understands that the Court may evaluate more substantive policy issues raised in the public comments as well as possible changes to the certified statement as part of its ongoing examination of the character review process, and the Ad Hoc Committee is willing to participate in the review of any of those public comments and policy issues should the Court so request.

II. OVERVIEW OF THE COMMITTEE ON CHARACTER AND THE CHARACTER REVIEW PROCESS

A. Membership and Basic Structure of the Committee on Character

As stated above, the Committee on Character is comprised of licensed New Jersey attorneys whose duty it is to determine whether candidates for admission to the bar of the State of New Jersey have the requisite good character and fitness to practice law. R. 1:25. Following a review of the personal records and reputation of each candidate, the Committee on Character certifies the candidate's fitness to the Supreme Court, or withholds such certification. Ibid.

That critical work is accomplished by a cadre of volunteer attorneys who generously donate their time and talent to the protection of the public and the advancement of the legal profession. Specifically, the Committee on Character consists of fifty volunteer attorneys who have been appointed by the Court for a renewable three-year term. Seven of those members are selected to sit on the Statewide Panel, which is the policy and oversight board of the Committee on Character. Additionally, the Court designates one committee member to serve as Statewide Chair. The Statewide Chair is the administrative head of the Committee on Character and the Statewide Panel. The Committee on Character is supported by a small professional staff of Judiciary employees within the Bar Admissions Unit.

B. Overview of the Character Review Process

A thoughtful and complete character review can take a significant amount of time. It involves a multi-step process that is governed by regulations adopted by the Committee on Character and approved by the Supreme Court pursuant to Rule 1:25.³ RG. 103:3 ("Except as provided by these Regulations, the Committee has complete discretion over its procedures."). For bar examination applications, the review begins before the examination. However, a full review and determination is made only after the successful completion of the bar examination.

³ See Regulations Governing the Committee on Character, approved, as amended, by the Supreme Court, and effective October 1, 2002, *available at* <https://www.njbarexams.org/committee-on-character-regulations> (last visited October 26, 2017).

For other types of admission applications (such as on motion or Uniform Bar Examination (UBE) score), the review begins upon the eligibility determination.

i. Requirements Imposed On Candidates for Admission

Each person applying for admission must complete a Certified Statement of Candidate, also known as a Character and Fitness Questionnaire (CFQ) -- an online application. RG. 201:1. The candidate is fingerprinted and provides routine documents, including driving abstracts for the past seven years. If the candidate has been admitted in other jurisdictions, he or she must provide a Certificate of Good Standing and Disciplinary History/Certificate of Ethical Conduct for each jurisdiction. The candidate is responsible for submitting the completed application and uploading all required information and requested materials to his/her online account.

The candidate has a general duty to disclose all available information requested by the Committee on Character. RG. 202:1. The candidate must diligently pursue his or her certification, and must respond in writing to inquiries and forward requested documentation to the Committee on Character. RG. 202:2. The candidate has a continuing obligation to update any responses that change during the pendency of his/her application until the candidate is sworn in as an attorney.

The admissions process and candidate's duty is explained early and often to the students at each New Jersey law school and at several Pennsylvania and New York law schools through information sessions provided by staff at each school, as well as public outreach provided by representatives of the Committee on Character and Bar Admissions unit.

ii. Initial Review and Certification

The applications are submitted to the Bar Admissions Unit, which is comprised of approximately 16 staff members divided into two units: general bar administration and admissions (10 employees), and staff to the Committee on Character (6 employees). The staff assist with the administration of forms and answering basic questions. Staff receive the applications and additional submissions (such as law school transcripts and disciplinary reports, driver's abstract, fingerprint background report), and assemble the information into a file for each candidate. The staff may also perform a general cursory review of the CFQ, taking note of any potential issues (such as any significant criminal history or disciplinary issues).

Each candidate file is assigned to a volunteer member of the Committee on Character (the “reviewing attorney”) for that attorney’s independent review and recommendation. The files, which are customarily made available to the reviewing attorney prior to the administration of the bar examination, are electronically transmitted through a secure portal.

The Committee on Character encourages each reviewing attorney to perform an initial review of his/her assigned files shortly after the files become available. The reviewing attorney is responsible for communicating directly with the candidate to obtain any missing or clarifying information. As information is received, it is compared with the candidate’s disclosures. The candidate may be asked to explain a discrepancy between his/her disclosure and official records, or to explain a nondisclosure when information is discovered during the course of the investigation.

Once all of the information has been collected, the completed file is reviewed as a whole. If, after reviewing all of the information, the reviewing attorney determines the candidate is fit to practice, the reviewing attorney prepares the file for certification.

Interview: The reviewing attorney may ask the candidate, and any other persons with knowledge relevant to the candidate’s character and fitness, to appear for an informal interview. RG. 302:2. The interview is conducted in private, unless the candidate requests otherwise. The candidate has the right to be represented by counsel.

Pursuant to the new regulation, RG. 302.2(b), the informal interview may result in consent to admission subject to specific conditions.

Further Investigation: If the file or candidate’s responses indicate that there are complex issues that require further information, the reviewing attorney may refer the matter back to staff for the Committee on Character to conduct a further investigation and/or schedule a hearing.

iii. Referrals for Substance Abuse/Mental Health Evaluations

Candidates with prior incidents or conduct involving alcohol, drug and/or mental health issues or a pattern of such issues may be referred for a substance abuse/mental health evaluation. Currently, candidates may elect to obtain the evaluation free of charge by the New Jersey Lawyer Assistance Program (NJLAP) or by a qualified private provider at his/her own cost (collectively referred to as “evaluator”).

After conducting the evaluation, the evaluator furnishes a written report to the Committee on Character that sets forth the evaluator's understanding of the issues involved, the candidate's diagnosis and prognosis, the evaluator's determination whether the candidate's condition affects his or her ability to practice law, and the evaluator's recommendation as to whether continued treatment is necessary. Staff for the Committee on Character review the evaluation report and prepare a summary for the reviewing attorney.

iv. RG. 303 Hearing

If the reviewing attorney determines not to certify a candidate or concludes that the determination should be made by a Panel, a hearing is conducted pursuant to RG. 303:1 (303 hearing). A candidate may be scheduled for a 303 hearing if a factual question arises regarding the candidate's background, or if the issues in the candidate's record are deemed sufficiently serious, show a pattern of concerning conduct, or the conduct at issue occurred recently (in law school or afterwards). A 303 hearing is not held until after the candidate passes the bar examination.

The Panel consists of three members – the reviewing attorney, acting as Chair, and two other members of the Committee on Character. RG. 303:1. The Panel members act as factfinders and the hearings are stenographically recorded. The candidate may be represented by counsel, present witnesses, and cross-examine witnesses. RG. 303:5. A staff attorney or counsel to the Committee on Character is also present and may ask questions.

At a 303 hearing, the candidate has the burden to establish by clear and convincing evidence his or her good character and current fitness to be admitted to the practice of law in New Jersey. RG. 303:6. In making that determination, the Committee on Character considers the severity of the conduct, the cumulative nature of the conduct, the candidate's candor and honesty before the Panel, the age of the candidate at the time of the alleged misconduct, and any rehabilitation evidence presented by the candidate. RG. 303:6(a)-(e). In some instances, the candidate is asked to submit additional documents after the hearing.

After the 303 hearing has concluded, if the evidence adduced clearly and convincingly demonstrates that the matter could have been resolved appropriately through the informal interview process, the Panel may certify the candidate without writing a report. RG. 303:8. In

addition, under the new regulation, if the Panel determines that the candidate can be admitted subject to specific conditions, the candidate may consent to admission subject to those conditions. RG. 303:8(a).

In other matters, the Panel issues a report after the hearing has concluded and the candidate has provided any required post-hearing documentation. The Panel may recommend that the candidate be certified for admission, that the candidate be certified with conditions, or that certification be withheld for a specific time. RG. 303:8(b)-(d). The Panel's report is forwarded to the Statewide Panel for review and appropriate action.

v. Review of 303 Hearing Report and Recommendations

Appeal by Candidate: If the 303 Panel recommends certification with conditions, or that certification be withheld, the candidate is entitled to make a written request for an appeal of that recommendation. RG. 304:1. The Appeal Panel is comprised of three members of the Committee on Character, at least one of whom is a member of the Statewide Panel.

The Appeal Panel conducts a de novo review on the 303 hearing record below, without any additional testimony, exhibits, documents or other proofs, or oral argument, unless the Appeal Panel directs otherwise. RG. 304:1(b). After consideration of the written arguments, the Appeal Panel issues a report and recommendation, which is forwarded to the Court for review and appropriate action.

If the Appeal Panel's recommendation is to withhold certification, or to certify with conditions, the candidate may file written exceptions to the Court. RG. 304:1(d).

Review by Statewide Panel: The Statewide Panel reviews every report and recommendation made by a 303 Panel, unless there was an appeal by the candidate. RG. 304:2. Even if the 303 Panel recommended certification, the Statewide Panel reviews the matter to ensure consistency.

The Statewide Panel has plenary powers to approve the recommendation; modify the recommendation (including recommending, rejecting, or modifying proposed conditions); recommend withholding certification; or remanding back to the 303 Panel for further proceedings. RG. 304:2(a)-(d). The Statewide Panel issues a report and recommendation, which is forwarded to the Court for review and appropriate action.

If the Statewide Panel recommends withholding certification, or certifying with conditions, the candidate may file written exceptions to the Court.

Determination by Supreme Court: The Supreme Court makes the final determination on the papers, unless the Court directs additional filings or oral argument. RG. 304:3. Rarely, the Court will direct the candidate to appear in person to respond to an order to show cause. The Court issues an order of its decision, which is transmitted to the candidate and the Committee on Character by the Clerk of the Supreme Court.

C. Challenges facing the Committee on Character: Preliminary Considerations

In 2012, the Bar Admissions Unit experienced a significant spike in applications for admission. That year, almost 4,000 candidates sat for the July administration of the bar examination. In addressing that volume of applications, the Committee on Character held a considerable number of hearings -- 110 hearings in 2012, as compared to the roughly sixty to seventy hearings for each year from 2013 to 2016 when fewer bar applications were processed. Unfortunately, the Committee on Character and its respective staff were unable to keep pace with the volume of hearings in 2012, and issued approximately 30 reports that year. The result was a backlog of character files, stemming from the spike in applications. The backlog also contributed to many systemic delays. For example, the increased volume in applications resulted in more requests for deficient or missing information and a greater number of referrals for mental health and/or substance abuse evaluations. This made the character review process more time consuming and placed a greater strain on the Bar Admissions Unit and Committee on Character's limited resources.

It should be noted that the Committee on Character and Bar Admissions Unit staff have been working diligently to reduce the backlog while continuing to process the applications for the current exam cycle. For that reason, most of the backlogged files have been resolved or are in the process of being resolved.

In recent years, the Bar Admissions Unit has seen a considerable decline in the number of bar applications, which may be attributable to a decline in law school graduates and the recent implementation of the UBE. It is too early to predict the effect that these changes will have on staffing and other aspects of the character review process going forward. Therefore, the Ad Hoc Committee recommends that topics such as staffing needs, and the delegation of responsibilities

and duties associated with the character review process, be reassessed once additional information and data has been gathered.

III. AD HOC COMMITTEE RECOMMENDATIONS AND DISCUSSIONS

A. Introduction

The character review process can take anywhere from several weeks to a year or even longer, depending on such issues as the completeness of the candidate's application, the candidate's responses to request for additional information, cooperation from outside sources that provide supplemental information, the issues involved, the nature of the investigations, and the volume of documents to be reviewed.

The Ad Hoc Committee found that, overall, very few applications experience delays. The majority of candidates are being certified in a timely manner. Notwithstanding the positive outcome for most candidates, the Ad Hoc Committee is of the view that candidates, the Committee on Character and staff would benefit from modifications to its review process and the establishment of timelines for certain phases of the process.

The recommendations contained in this report are crafted to help expedite the character review process without compromising the Court's ability to ensure that only candidates with the requisite good character and fitness are admitted to the practice of law and without placing an undue burden on the limited resources of the Committee on Character, Bar Admission Unit staff, or the Court.

B. Recommendations and Discussions

Pursuant to its charge, the Ad Hoc Committee makes the following recommendations. The recommendations are organized according to the phase of the character review process to which they relate.

Initial Review and Certification

The Ad Hoc Committee found that the reviewing attorneys generally perform the initial review in a timely manner. When a reviewing attorney falls behind in conducting the initial review of the file, those instances are typically attributed to unexpected circumstances, such as personal illness or trial dates. However, these occasions are limited and do not appear to have a significant impact or contribute to any substantial delays. Additionally, the Ad Hoc Committee

is satisfied that the Committee on Character actively monitors the status of each reviewing attorney's workload, and will reassign files when these circumstances arise.

Notably, in its written public comment to the proposed amendments advanced by the Committee on Character, the New Jersey State Bar Association raised the concern that the regulations do not provide deadlines by which the Committee on Character must review the submitted information. Although the Ad Hoc Committee did not identify any significant delays in this initial phase of the review process, the Ad Hoc Committee recognizes the benefit of creating timelines.

Recommendation 1. Streamline the initial review and certification of the assigned candidate files.

The Ad Hoc Committee observed that many reviewing attorneys conduct a brisk, cursory review of the candidate's files to quickly assess the completeness and complexity of a candidate's file. A prompt initial screening allows the reviewing attorney to anticipate and preliminarily assess the attention and resources likely to be required to complete the substantive review of each application. This review establishes efficiencies that have a spillover effect to the other stages of the character review process. Therefore, in furtherance of creating a more streamlined review process, the Ad Hoc Committee makes the following recommendations:

Recommendation 1.1 Establish a deadline for the reviewing attorneys to perform the initial review on all assigned files.

Recommended language: "The reviewing attorney shall endeavor to complete the initial review of each assigned file within thirty days of the date on which the Committee on Character makes the candidate's file available to the reviewing attorney for his or her independent review."

In discussing an appropriate deadline, the Ad Hoc Committee became aware that there have been computer glitches from time-to-time in transmitting the candidate files. However, it remains the Committee on Character's objective to ensure that the candidate files are made available to the reviewing attorneys prior to the administration of each bar examination.

The Ad Hoc Committee believes that thirty days is sufficient time to afford the reviewing attorney a meaningful opportunity to familiarize him/herself with the assigned files and identify whether each application is: (1) complete (i.e., the CFQ is properly executed and notarized with no questions left unanswered, and the supporting documents are uploaded), and does not present any issues or significant adverse factual information; (2) incomplete and must await the

candidate's submission of the requisite information, but does not otherwise appear to present any complicating issues that would require additional investigation; (3) presents issues likely to require a referral for a substance abuse or mental health evaluation; or (4) presents complex issues and is likely to require a hearing (these applications may also be missing information or require supplemental submissions).

Once the initial review has been conducted, the reviewing attorney should focus on certifying the completed applications.

Recommendation 1.2 Initial focus should be placed on reviewing the completed applications and certifying those candidates determined fit to practice law.

Recommended language: "The reviewing attorney shall endeavor to complete his or her review of all completed applications, and to certify all candidates with completed files who demonstrate character and fitness in accordance with R. 1:25 and R. 1:27-1(a)(2), within sixty days of the date on which the Committee on Character makes the candidate's file available to the reviewing attorney."

As previously noted, the majority of candidates are certified in a timely manner, which suggests that the process is working efficiently overall. This recommendation simply provides structured time goals designed to promote a prompt determination on the completed applications and timely certification of the candidates deemed fit to practice.

Although this recommendation may appear to place pressure on the reviewing attorneys, the Ad Hoc Committee observed that the majority of the applications submitted are complete at the initial review stage. Therefore, the majority of the files will continue to be ready for certification early in the process. If such applications are certified more uniformly within sixty days, this will help to ensure that completed applications are not delayed unnecessarily or inadvertently. In making this recommendation, the Ad Hoc Committee intends that the sixty-day time frame operate as a time goal to guide the process and enhance transparency for the candidates. It is not intended to be a strict deadline.

Incomplete Applications: Responding to Inquiries and Curing Application Deficiencies

Incomplete applications contribute to a significant portion of character and fitness review delays. Incomplete applications are those in which the candidate has failed to provide a full,

factual narrative explanation for each question of the CFQ, the required submissions and documentary support, and/or a full and timely response to requests from the Committee on Character.

Most delays have been attributed to: (1) the time it takes the reviewing attorney to identify the missing information and to alert the candidate to the deficiency; and (2) the timeliness and quality of the candidate's response. In its written public comment to the proposed amendments advanced by the Committee on Character, the New Jersey State Bar Association raised a concern regarding the lack of deadlines by which the Committee on Character must act on these applications.

In light of the nature and length of the delays and the need for active and effective case management to expedite the review process, the Ad Hoc Committee recommends that the Court provide a framework for resolving application deficiencies and additional inquiries and requests for information. Specifically, the Ad Hoc Committee recommends: providing guidance to the reviewing attorneys for communicating deficiencies of the incomplete applications; raising the prospect that a file will be deemed abandoned to address delays caused by disengaged and nonresponsive candidates; and providing guidance for responding to candidates who have communicated a genuine obstacle to fulfilling the request within the prescribed time frame.

Recommendation 2. Provide guidance for communicating the deficiencies of the incomplete applications.

The Ad Hoc Committee notes that providing candidates with notification of their application deficiencies as early as possible aids in reducing delays. Therefore, the Ad Hoc Committee recommends that the reviewing attorney, with the assistance of staff, as needed, initiate communication to advise the candidate of any application deficiencies and request that the candidate provide the information necessary to complete his/her application and continue through the character review process.

Recommendation 2.1. Establish a deadline for the reviewing attorneys to notify candidates about application deficiencies.

It is recommended that the reviewing attorney identify to the candidate application deficiencies within sixty days of the date on which the Committee on Character makes the candidate's file available to the reviewing attorney.

The Ad Hoc Committee notes that, if the reviewing attorneys perform the initial review within the first thirty days as recommended above (Recommendation 1.1), the application deficiencies will be identified in that time frame. Thus, this recommendation provides the reviewing attorneys an additional thirty days to notify the candidate of those deficiencies.

Recommendation 2.2. The reviewing attorney should be encouraged to memorialize the request for additional information in writing and include the deadline for responding to the request.

Although the reviewing attorney may use various methods to communicate with the candidates (such as letters, emails, phone calls, etc.), it is best practice for the reviewing attorney to memorialize those communications in writing, such as email or through the secured portal.

The Ad Hoc Committee also suggests that the correspondence state the deadline for the candidate to respond. Under current regulations, candidates are required to respond in writing to inquiries and forward requested documentation to the reviewing attorney within thirty days of the inquiry. RG. 202:2.

Additionally, the Ad Hoc Committee suggests that the correspondence include a notification that failure to respond to the inquiry may result in a declaration that the application for admission has been abandoned. The Committee on Character currently provides this notification to candidates, and the Ad Hoc Committee recommends that the practice be continued and consistently applied.

Recommendation 3. Utilize abandonment as a recourse to address delays caused by disengaged and/or nonresponsive candidates.

Under the current regulations, a candidate's failure to respond to inquiries "shall result in a declaration that the application for admission of the candidate has been abandoned." RG. 202:2. Abandonment has the effect of precluding that candidate's application from being reviewed for a specific period of time. However, the Committee on Character rarely, if ever, deems an application to be abandoned. In light of this general policy, the Ad Hoc Committee expressed concern about the lack of recourse available to address delays caused by nonresponsive or disengaged candidates.

The Ad Hoc Committee strongly believes that the remedy for noncompliance and lack of cooperation must "have teeth" in order to be effective and motivate disengaged candidates to

respond. Therefore, the Ad Hoc Committee recommends that the Committee on Character re-evaluate its current practice and begin to utilize abandonment when a candidate is disengaged from the process and does not fulfill his/her obligation to respond to inquiries in a timely manner. The Ad Hoc Committee recommends that abandonment have the effect of precluding that candidate's application from being reviewed for at least one year.

The Ad Hoc Committee suggests implementing the following framework:

If the candidate has not responded to the initial request within the prescribed time frame, the reviewing attorney is to notify the candidate of his/her noncompliance; that he/she has an additional thirty days to respond to the request; and that failure to timely respond to the request will result in a declaration, pursuant to RG. 202:2, that the application has been abandoned.

If the candidate has not responded or communicated with the reviewing attorney within thirty days of the inquiry (as provided under RG. 202:2), the Ad Hoc Committee recommends that the reviewing attorney send a subsequent written notice (i.e., letter, email, note in the secured portal) to advise the candidate that he/she is being provided a final thirty days to respond, and that failure to do so will result in abandonment.

In light of the candidate's obligation to diligently pursue certification and the Committee on Character's need to perform the independent review in a timely fashion, the Ad Hoc Committee believes that an additional thirty days is sufficient time for the candidate to cure deficiencies and/or to re-engage in the process and communicate with the reviewing attorney about his/her application.

If the candidate does not respond to the Committee's initial request or followup notification within sixty days of the initial request, and the candidate does not submit documentation of his/her efforts to obtain the requested documentation and information, then the reviewing attorney should be encouraged to begin the internal process of declaring the application abandoned.

The Ad Hoc Committee concludes that sixty days is sufficient time for the candidate to respond to the Committee on Character's inquiries and reengage in the process. By then, the candidate would have received the initial request and a subsequent request, both of which provided thirty days to respond and a warning about the potential for abandonment. The risk of abandonment should have provided the candidate with sufficient incentive to respond in a timely manner, and certainly within the sixty-day time frame.

The Ad Hoc Committee believes that the current regulations allow the application to remain stagnant and incomplete for too long because of a candidate's self-imposed and inexcusable delay. This is unfair to the candidates who are cooperative and diligently pursue certification. This is also unfair to the Committee on Character and staff, who are responsible for performing all of the necessary work to complete the character review process once the candidate decides to resume the process. The Ad Hoc Committee therefore recommends that the reviewing attorney be encouraged to begin the internal process of declaring the application abandoned if the candidate does not respond and remains disengaged after sixty days.

The Ad Hoc Committee also recommends that abandoned applications may not be reinstated for one year, in order for abandonment to be an effective remedy. This recommendation would allow the Committee on Character and staff to decline requests to reopen an application for a definitive period of time, and to focus their limited resources to ensure that the remaining applications of the candidates who have been responsive and cooperative continue through the review process in a timely manner.

Recommended language: "A candidate whose file has been abandoned for failure to respond to inquiries may not have his or her file reinstated or seek admission for one year from the date that the Committee on Character's declares the application to be abandoned."

The Ad Hoc Committee notes that the suggested sixty days provided by this recommendation would amend the current regulation, requiring "ninety days after the release of the examination results to abandon an application." RG. 202:3. Using the release of the examination results is problematic for two reasons: (1) it frustrates the Committee's effort to resolve applications in a timely manner, including, whenever possible, before the release of examination results; and (2) it is vague with respect to the timeline for abandoning an application where the candidate seeks admission based on a transferred UBE score or admission on motion. Therefore, an amendment appears necessary, even if the Court does not adopt the Ad Hoc Committee's proposed time frame.

Recommendation 4. Provide guidance for responding to candidates who communicate a genuine obstacle to fulfilling the request within the prescribed time frame.

The Ad Hoc Committee recognizes that some candidates are cooperative, responsive, and exercise due diligence, but are nonetheless unsuccessful in obtaining the information and

documentation requested. These candidates may encounter a genuine obstacle to obtaining certain documents, or there may be circumstances in which there is no documentation (i.e., an incident that occurred in an academic institution and was handled informally). However, the candidate also has an obligation to diligently pursue certification and respond in timely fashion. Therefore, the candidate must demonstrate his/her efforts towards fulfilling that duty. If the candidate has been responsive and submitted documentation of his/her efforts to obtain the requested information and documentation, then that application should not be abandoned. The reviewing attorney may use discretion to resolve any issues related to any outstanding responses or submissions.

A candidate must document the efforts that he/she has made to comply with the request and provide the status of the outstanding submission(s).

The Ad Hoc Committee recommends that if the candidate is unable to produce the information or documentation within the Committee on Character's requested time frame, he or she should respond, nevertheless, within the prescribed time frame, explaining the effort that the candidate has made to obtain the necessary information or documents. The Ad Hoc Committee recommends that the candidate also be directed to submit documentation demonstrating those efforts that he/she has taken towards complying with the request. For example, in responding to the Committee on Character's request for information from an authority or agency, the candidate would enclose a copy of the completed form or letter that was sent to the appropriate authority or agency to obtain the requested information. The candidate should provide such documentation prior to the deadline for compliance.

The reviewing attorney has discretion to resolve issues related to any outstanding responses or submissions.

The Ad Hoc Committee's recommendations regarding outstanding information are not designed to penalize an engaged and responsive candidate. Rather, the goal is to facilitate interaction between the reviewing attorney and candidate and reduce the delays associated with incomplete applications. Therefore, if the candidate has been responsive and submitted documentation of his/her efforts to comply, the reviewing attorney may use discretion to resolve any issues related to any outstanding responses or submissions. This is consistent with current practices and encourages dialogue between the Committee on Character and the candidate.

Once the application is deemed complete, the reviewing attorney can proceed to the next step of independent review.

Referrals for Substance Abuse/Mental Health Evaluations

As stated above, candidates with prior incidents or conduct involving alcohol, drug and/or mental health issues may be referred for a substance abuse/mental health evaluation. Candidates may elect to obtain the evaluation by NJLAP, free of charge, or by a qualified private provider at his/her own cost. The Ad Hoc Committee was advised that the majority of candidates who are referred for an evaluation obtain the evaluation from NJLAP. Unfortunately, the evaluation and preparation of the evaluator's report often delays the candidate's application for several months. Notably, the Ad Hoc Committee was informed that, in broader context, the delay might be of significant benefit to the candidate overall, particularly when the candidate elects to spend that time obtaining treatment and engaging in a rehabilitative course of action. However, the Committee on Character is unable to move ahead with the candidate's application until the evaluator's report is received.

Therefore, in light of the Committee on Character's need to continue with the character review process in a timely fashion, while allowing flexibility as it relates to delays associated with the candidate's treatment, the Ad Hoc Committee makes the following recommendations:

Recommendation 5. Streamline the substance abuse/mental health evaluation process.

Recommendation 5.1 Establish a deadline for candidates to schedule their substance abuse/mental health evaluation.

Recommended language: "The candidate shall endeavor to schedule and participate in a substance abuse/mental health evaluation within forty-five days of being notified of the need for such an evaluation."

The Ad Hoc Committee recommends that the candidate act promptly in scheduling and participating in a substance abuse/mental health evaluation once advised that an evaluation is required. The recommended deadline for scheduling and participating in the evaluation is forty-five days after the candidate has been notified of the need for an evaluation. This recommendation is consistent with the candidate's obligation to diligently pursue his/her certification. RG. 202:2.

Recommendation 5.2 The evaluator shall endeavor to furnish a completed evaluation to the reviewing attorney as expeditiously as possible.

Although the Ad Hoc Committee is concerned about the length of time it takes to obtain an evaluation report, the Ad Hoc Committee is cognizant of the valuable services offered by NJLAP and the private providers, and that sometimes delays are not always to the candidate's detriment. Rather, sometimes the delay is a result of the candidate receiving treatment and/or services. Therefore, imposing a firm deadline may interfere with the therapeutic efforts that could benefit a candidate. Sometimes referrals lead to treatment and/or services that may require time to resolve, and may assist the candidate in demonstrating rehabilitation in furtherance of obtaining certification (with or without conditions).

It should be noted that some members of the NJLAP have expressed reluctance in continuing to evaluate individuals for admission because some view the process as being seemingly in conflict with the NJLAP's mission of providing treatment to individuals rather than determining whether an individual is fit to practice. Therefore, for future consideration, the Ad Hoc Committee suggests that Court explore and attempt to identify alternative agencies or organizations that will be able to provide this service to candidates.

303 Hearings

As previously discussed, a candidate is likely to undergo a 303 hearing if a factual question arises or if the issues in the candidate's record are deemed sufficiently serious, show a pattern of concerning conduct, or occurred recently (in law school or afterwards).

Very few candidates undergo a 303 hearing.⁴ For those candidates who do undergo a 303 hearing, there are usually interim delays associated with the process.

The time it takes to schedule a 303 hearing is a common cause of the delays.⁵ This delay has been attributed to the challenges associated with coordinating the availability of all three

⁴ As of June 2017, there were 10 applications listed to be scheduled for a 303 hearing, however that number is subject to change. During the 2016 exam cycle, the Committee on Character held 56 hearings. The most hearings conducted in an exam cycle is 110, which occurred in 2012, the same year the Bar Admission Unit experienced a spike in submissions.

⁵ It should be noted that the Committee on Character used to require that the NJLAP evaluation report be provided before a 303 hearing could be scheduled, thereby adding to the delays at the 303 hearing stage.

Panel members, the candidate, and the candidate's attorney, if represented. In a public comment on the Committee on Character's proposed revisions, the New Jersey State Bar Association represented that some 303 hearings were not scheduled for more than a year after the candidate was notified of a need for a hearing. Similarly, a public comment submitted by a private practitioner expressed concern that some hearings are not conducted until six to eight months or more after the bar examination results are released.

After the hearing is conducted, there also are delays associated with issuing the 303 hearing report and recommendation. While the anecdotal reports vary, it can take over three months after the 303 hearing for the panel's report and recommendation to be issued. Some reports are issued significantly later than that. Members of the public, in comments and through testimony, raised concern that it often takes months, and, in some cases, years after the 303 hearing for the report and determination to be issued. Members of the Ad Hoc Committee echoed this concern during the deliberative process.

The Ad Hoc Committee identified two primary causes of delay at this stage of the process: (1) candidate's delay in providing information and documents requested at the hearing; and (2) delay associated with the Committee staff's ability to draft the report and recommendation in a timely manner. In regard to the latter, the Ad Hoc Committee considered whether the length and detail of the 303 reports factor into the delay, noting that the average report is approximately 25-40 pages in length. In complex cases, more extensive reports, some exceeding 90 pages in length, have been prepared.

The Ad Hoc Committee makes the following recommendations to help facilitate the prompt scheduling of 303 hearings and issuance of the report and recommendation:

Recommendation 6. Establish a deadline for the Committee on Character to schedule the 303 hearing.

The Committee on Character adjusted its internal practices and implemented changes to address this issue. Now, the Committee on Character no longer waits to receive the evaluation report before scheduling the 303 hearing and, instead, advises NJLAP of the scheduled hearing date. Since the changes, NJLAP has been providing the evaluation report in a timely fashion. The changes appear to have been effective in reducing delays attributed to the NJLAP evaluation reports; however, there are still other delays in scheduling the hearings that need to be addressed.

Recommended language: "Whenever possible, the Committee on Character shall endeavor to schedule the 303 hearing within sixty days of the reviewing attorney's determination that a hearing is required and the file is sufficiently complete to proceed."

The Ad Hoc Committee recommends establishing a deadline for scheduling the 303 hearing to encourage a more consistent and timely process. Based on input from representatives of the Committee on Character, the Ad Hoc Committee believes that sixty days is sufficient time to achieve this goal.

Additional considerations that may assist in expediting the scheduling of 303 hearings:

1. *Reducing size of panel from three to two Committee members.* Under current regulations, a candidate may waive his/her entitlement to a three-member panel and may proceed with a hearing before a reduced panel. RG. 303:1. The Ad Hoc Committee believes that a reduced panel will result in fewer scheduling conflicts. Therefore, the Ad Hoc Committee suggests that the Committee on Character evaluate whether to present candidates with the option of a two-member panel option when notifying the candidates about the need to schedule a 303 hearing.
2. *Block prescheduling.* One member of the Ad Hoc Committee suggested that the Committee on Character investigate the feasibility and potential benefit of prescheduling dates for holding 303 hearings. This would enable the reviewing attorneys to set aside those "reserved" dates at the beginning of each exam cycle, which may also help to expedite scheduling. Representatives of the Committee on Character advised that this approach was utilized in the past, but was not successful, in part because it placed an unnecessary burden on the volunteers who are members of the Panel. The dates only ensured the availability of the Panel members, not the candidate or the candidate's attorney, and, ultimately, most dates were held open unnecessarily.

Recommendation 7. Provide guidance for issuing a completed RG 303 report.

Recommended language: "The RG 303 panel shall endeavor to complete the RG 303 report no later than ninety days following the RG 303 hearing, or, if additional documents are requested at the hearing or post-hearing, within ninety days of the panel's receipt of those documents."

This recommendation places the initial burden on the candidate to provide all of the documents and information requested at or following the 303 hearing by the imposed deadline. That obligation is consistent with the candidate's general duty to disclose and cooperate and

attempts to alleviate delays caused by the candidate's failure to provide any necessary post-hearing documents in a timely fashion.

The Ad Hoc Committee recommends that the Panel endeavor to issue a completed 303 report no later than ninety days following the hearing. The Ad Hoc Committee believes that this time frame is a reasonable goal for drafting and issuing the final 303 report and recommendation.

The Ad Hoc Committee also recommends that the length of the report be kept within the lower range (20 pages) whenever possible, without compromising the due process owed to each candidate. The Ad Hoc Committee anticipates that the recommended ninety-day time frame reflects the desired scope of the report and will encourage the staff attorneys to condense and summarize the information in a more succinct fashion. Of course, the Ad Hoc Committee defers to the Court for determination of the appropriate scope and depth of analysis in a 303 report.

The Ad Hoc Committee notes that this page limit and ninety-day time frame are suggestive guidelines, and that the process must still allow for flexibility when the circumstances and/or due process truly require an extension of time or relaxation of the page limit.

Review of 303 Hearing Report and Recommendations

As previously discussed, the current regulations provide two different types of review of the 303 hearing report and recommendations: an Appeal by Candidate (RG. 304.1), and Review by Statewide Panel (RG.304.2). If adopted, the proposed amendments by the Committee on Character would remove the 304.1 appeal, thereby eliminating one level of interlocutory review. The Ad Hoc Committee recommends that the appeal by candidate (currently RG. 304:1) be removed from the character review process, as set forth in the Committee on Character's proposed revisions to the regulations.

Recommendation 8. Adopt the Committee on Character's proposed regulation to remove the 304.1 hearing (Appeal by Candidate) from the character review process.

The Ad Hoc Committee found that in most instances, the appeal by candidate rarely results in a change to the 303 Panel recommendation, and simply adds more time to the character review process. The appeal requested by a candidate, pursuant to RG. 304.1, experiences the same types of scheduling delays associated with the 303 hearing – the challenges of coordinating

the availability of the members of the Committee on Character who would be serving on the Appeal Panel, and issuing a report and recommendation. The Ad Hoc Committee learned that, in most instances, the outcome for the candidate has rarely changed as a result of a 304.1 hearing, and that the process is also not an efficient use of the Committee on Character and staff's resources given the limited benefit conferred. On the other hand, the Ad Hoc Committee learned that the Statewide Panel review, pursuant to RG. 304.2, has been an effective appellate review process and does not result in similar delays.

The Ad Hoc Committee notes that, under the proposed regulation, the candidate retains the ability to obtain appellate review of the 303 Panel determination through the review by Statewide Panel. The proposed revisions also afford the candidate the opportunity to file exceptions for the Statewide Panel's consideration in making its determination. The Ad Hoc Committee is satisfied that the Statewide Panel review provides the candidate with the quality of appellate review that due process necessitates.

Additional Considerations and Recommendations:

Recommendation 9. Adopt the Committee on Character's proposed regulation to make RG. 303:4 consistent with the rolling admissions/applications (i.e., UBE) process/timeline.

The current regulations provide that "[w]hen possible, the Committee shall schedule the hearing within ninety days of the official date for the admission of successful applicants." RG. 303:4. The Ad Hoc Committee notes that this language is inconsistent with rolling admissions/applications (i.e., UBE transfer applications and admission on motion). Therefore, the Ad Hoc Committee supports adopting the revisions set forth in the Committee on Character's proposed regulation, which removes the language that is inconsistent with the current process.

Recommendation 10. Consider amending the regulations to affirmatively authorize the Statewide Panel to take into consideration the time that a candidate's application has been pending when determining whether conditions or a "withhold" should be imposed retroactively.

The Ad Hoc Committee notes that there are some candidates whose applications remain pending for one year or more after the candidates have passed the bar examination. The Ad Hoc Committee was informed that when the Committee on Character recommends that such candidates be "withheld," the Court, on occasion, has imposed the "withhold" recommendation

retroactively, and concurrently admitted the candidates to practice. Recognizing the Court's disposition in those matters, the Ad Hoc Committee believes that the Statewide Panel should have the authority to address any delays that are outside of a candidate's control and, more specifically, to consider whether conditions or a "withhold" recommendation imposed by a 303 Panel should be retroactive or include a retroactive time period. Such a mechanism could both correct for any delay that may have occurred up to the point of the Statewide Panel's review, and also would avoid the passage of more time, which necessarily would accrue if the candidate was inclined to challenge the conditions or withhold before the Court.

Exhibit A

COMMITTEE MEMBERSHIP

Chair:

Associate Justice Anne M. Patterson

Members:

Hon. Julio L. Mendez, A.J.S.C. (Atlantic/Cape May)

Mark Neary Esq. – Clerk, Supreme Court

Stuart M. Lederman, Esq. (Morristown) – Statewide Chair of the Committee on Character

Heather Joy Baker, Esq. – Chief Counsel, Supreme Court

Ann Marie Fleury, Esq. – Special Assistant to the Administrative Director, AOC

Angela V. Baker, Esq. – Associate Dean of Students and Diversity Affairs, Rutgers Law School (Camden location)

Christine A. Amalfe, Esq. (Newark) –New Jersey State Bar Association Representative

Crystal West Edwards, Esq. (Florham Park) –Garden State Bar Association Representative

Frederick J. Dennehy, Esq. (Cranbury)

Staff:

Fenix A. Manning-Bowman, Esq., Staff Attorney, Supreme Court Clerk's Office

Exhibit B

NOTICE TO THE BAR

REGULATIONS GOVERNING THE SUPREME COURT COMMITTEE ON CHARACTER – AMENDMENTS REGARDING STIPULATION TO CONDITIONS BY CONSENT

The notice is to advise that the Supreme Court of New Jersey has adopted certain amendments to the Regulations Governing the Supreme Court Committee on Character. Under Rule 1:25, the Committee on Character is charged with determining the good character and fitness of candidates for admission to practice law in New Jersey. The Committee on Character also is authorized to prescribe Regulations governing its practice and procedures, subject to the approval of the Supreme Court. The amendments announced by this notice are to Regulations 302:2, 303:8 and 304:2, and authorize the Committee on Character to admit candidates subject to specific conditions by consent of the candidate without the need for hearings, reports, or action by the Supreme Court. The amendments are effective July 1, 2017.

By Notice to the Bar dated April 3, 2017, the Supreme Court published proposed amendments to the Regulations that were recommended by the Committee on Character after a significant review and assessment of its current Regulations. The amendments proposed by the Committee on Character included numerous changes intended “to expedite consideration and disposition of character applications and also to provide additional guidance to candidates for admission,” including provisions allowing for admission by stipulation of conditions on consent. The original notice requested that comments be submitted by May 3, 2017. A second notice dated May 3, 2017, extended the comment period to May 24, 2017. In addition, by notice dated May 16, 2017, the Supreme Court allowed members of the public to comment on the proposed amendments at the public hearing on Supreme Court Committee reports, held on Tuesday, May 30, 2017.

The Supreme Court considered the written comments received in response to the proposed amendments as well as the oral comments provided at the hearing of May 30, 2017. Some comments welcomed the effort to improve the applicable procedures and supported some of the proposed amendments. Other comments objected to certain aspects of the proposed amendments and requested that the Supreme Court start the process of considering revisions to the Regulations anew. Notably, none of the comments took exception to the proposed amendments to allow for the stipulation of conditions by consent. The Supreme Court took note that several of the comments complained that candidates experienced excessive delays in the character review process, and the representations of the Committee on Character that authorizing stipulations would expedite the character review process for many candidates now awaiting admission.

As a result, the Supreme Court requested its Ad Hoc Committee on the Character Review Process, which the Court created in March 2017 to report on certain aspects of

character review, to consider whether the Court should adopt amendments now that would authorize stipulation of conditions by consent, without taking action on the many other proposed amendments. The Ad Hoc Committee expedited its review of the issue and recommended that the Supreme Court adopt such amendments forthwith. The Ad Hoc Committee submitted to the Supreme Court limited proposed amendments regarding the stipulation of conditions by consent that included the substance of the provisions that were included in the proposed amendments published on April 3, 2017.

The Supreme Court considered the amendments proposed by the Ad Hoc Committee and, with minor exceptions, determined to adopt those amendments to be effective July 1, 2017. The adopted amendments to the Regulations are attached, with new text shown by underscoring and deleted text shown in brackets.

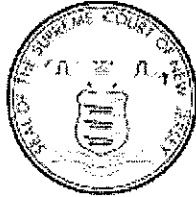
The Supreme Court will announce at a future date action on the other proposed amendments to the Regulations that were published for comment on April 3, 2017.

/s/ Mark Neary

Mark Neary
Clerk, Supreme Court of New Jersey

Dated: June 26, 2017

STATE OF NEW JERSEY
COMMITTEE ON CHARACTER
Appointed by the Supreme Court of New Jersey



**REGULATIONS GOVERNING THE COMMITTEE ON CHARACTER (Approved,
as amended, by the Supreme Court, effective July 1, 2017)**

PART III CERTIFICATION PROCEDURES

REGULATION 302. Initial Review and Certification

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302:2 Interview Procedures.

a. A candidate and any other persons with knowledge relevant to the candidate's character and fitness to practice law may be asked to appear for an informal interview before the member or members. The interview shall be conducted in private unless the candidate requests otherwise. The candidate has the right to be represented by counsel. Testimony may be given under oath, and a verbatim record may be taken at the request of either the Committee or the candidate. Any member of the Committee is authorized to administer the oath to the candidate and such witnesses as may appear before the Committee. The Committee shall not be bound by the strict rules of evidence. Whenever a transcript of the record is ordered, a copy shall be furnished to the candidate.

b. Subsequent to the interview, the interviewing Committee member or members, with the approval of their Part Chair or of the Statewide Chair, may offer the candidate the opportunity to consent to admission subject to specific conditions. In such cases, the candidate shall be provided with a stipulation of conditions by consent. All stipulations of conditions by consent shall include the following: a recommendation that the candidate consider the matter carefully and that he or she consult with an attorney; and the candidate's assertion that consent is freely and voluntarily given, that he or she has not been subjected to coercion or duress, and that he or she is not under any impairment that would prevent his or her knowing and voluntary consent. The candidate shall be

given thirty (30) days to sign the stipulation. All stipulations of conditions by consent must be reviewed by the Statewide Panel in accordance with RG 304:2(d).

...

REGULATION 303. Part Hearing

...

303:8 Determination; Report and Recommendations. On the conclusion of the hearing, if the evidence adduced clearly and convincingly demonstrates that the matter could have been resolved appropriately through the informal interview process set forth in RG. 302, the Panel may certify the candidate pursuant to RG. 302:3. [In all other matters, the Panel shall issue a report.] The vote of each member shall be expressly noted. Any Panel member who does not join in the report may prepare a separate report.

a. If the Panel determines that the candidate can be admitted subject to specific conditions, the Panel may offer the candidate the opportunity to consent to admission subject to those conditions. In such cases, the Panel shall not issue a report. The candidate shall be provided with a stipulation of conditions by consent. All stipulations of conditions by consent shall include the following: a recommendation that the candidate consider the matter carefully and that he or she consult with an attorney; and the candidate's assertion that his or her consent is freely and voluntarily given, that he or she has not been subjected to coercion or duress, and that he or she is not under any impairment that would prevent his or her knowing and voluntary consent. The candidate shall be given thirty (30) days to sign the stipulation. All stipulations of conditions by consent must be reviewed by the Statewide Panel in accordance with RG 304:2(d).

b. [a.] If the Panel determines to certify the candidate, it shall file a report with the Secretary and the Statewide Panel. A copy shall be sent forthwith to the candidate.

c. [b.] If the Panel determines to recommend that certification be withheld, it shall file a report with the Secretary and the Statewide Panel. A copy shall be sent forthwith to the candidate. On receipt thereof, a candidate may file an appeal pursuant to RG. 304:1. Reasons for withholding certifications may include, but need not be limited to, the criteria listed in RG. 302:1.

d. [c.] In cases in which the Panel determines that inappropriate conduct has resulted from substance abuse, mental illness, psychological disorder, or such other grounds as the Committee, with good cause, may determine or when the candidate has been treated for substance abuse or bipolar disorder, schizophrenia, paranoia, or other psychotic disease within the twelve months preceding the submission of the Statement, the Panel may recommend certification subject to conditions. If the Panel determines to certify with conditions, it shall file a report with the Secretary and the Statewide Panel. A copy shall be sent forthwith to the candidate, who may file an appeal pursuant to RG. 304:1.

REGULATION 304. Review of RG 303 Hearing Reports and Recommendations and Stipulations of Conditions by Consent

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304:2 Review by Statewide Panel. The Statewide Panel shall review every report and recommendation made by a Hearing Panel pursuant to RG. 303, unless an appeal is taken pursuant to RG. 304:1. The Statewide Panel also shall review all stipulations of conditions by consent. The Statewide Panel shall have plenary powers to:

- a. Approve the recommendations of the Hearing Panel;
- b. Modify the recommendation, including recommending, rejecting, or modifying proposed conditions;
- c. Recommend the withholding of certification;[or]
- d. Approve a stipulation of conditions by consent, after which the candidate may be certified for admission with conditions without further review by the Supreme Court;
- e. Reject a stipulation of conditions by consent, after which the matter will be referred for further proceedings in accordance with the directions of the Chair of the Statewide Panel;
- f. Modify the conditions in any stipulation of conditions by consent and offer the candidate the opportunity to consent to the conditions as modified. The candidate shall be given thirty (30) days to sign the stipulation. If the candidate does not consent to the conditions as modified, the matter will be referred for further proceedings in accordance with the directions of the Chair of the Statewide Panel; or
- g. [d.] Remand the matter to the Hearing Panel for further proceedings.

The Statewide Panel shall take final action on a stipulation of conditions by consent in accordance with d, e or f above within 30 days of the date the candidate signs the stipulation. With the exception of actions taken regarding stipulations of conditions by consent, [T]the Statewide Panel shall file [its] a report and recommendation with the Secretary who shall refer the report to the Supreme Court for final approval pursuant to RG. 304:3. A copy shall be sent forthwith to the candidate. If the Statewide Panel's recommendation is to withhold certification, or to certify with conditions, the candidate shall have fifteen days from the filing date of the report within which to submit an original plus eight copies of written exceptions to the Supreme Court on the papers submitted unless the Court directs additional filings or oral argument. The decision of the Supreme Court shall be transmitted by the Clerk of the Supreme Court to the candidate and to the Committee on Character.

...