

NOTICE TO THE BAR

REGULATIONS GOVERNING THE SUPREME COURT COMMITTEE ON CHARACTER – PROPOSED AMENDMENTS – COMMENTS REQUESTED

The Supreme Court of New Jersey, by this notice, is requesting written comments on proposed amendments to the Regulations Governing the Committee on Character (Committee). Under Rule 1:25, the Committee is charged with determining the fitness of candidates for admission to the New Jersey Bar. The Committee also is authorized to prescribe regulations governing its practice and procedures, subject to the approval of the Supreme Court. R. 1:25.

The Committee has undertaken a significant review and assessment of its regulations, which were last amended in 2002. By these proposed amendments, the Committee seeks to expedite its consideration and disposition of character applications and also to provide additional guidance to candidates for admission. One section of the proposed amendments would allow a candidate to consent to admission on conditions prior to the hearing and report stage. Another would eliminate an intermediate, appellate process, providing, instead, for all character matters to be presented immediately to the Statewide Panel for review. In addition, the proposal includes some technical amendments intended to clarify the review process. Proposed new text is shown by underscoring; text proposed for deletion is shown by strikethroughs.

Please send any comments on the proposed amendments in writing by Wednesday, May 3, 2017 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments – Committee on Character Regulations
Hughes Justice Complex; PO Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via e-mail to : Comments.Mailbox@njcourts.gov.

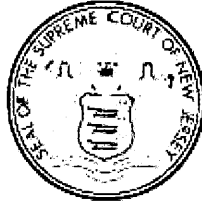
The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address, and those submitting comments by e-mail should include their name and e-mail address. Comments are subject to public disclosure upon receipt.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: April 3, 2017

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



[PROPOSED REVISIONS]

**REGULATIONS GOVERNING THE COMMITTEE ON CHARACTER (Approved,
as amended, by the Supreme Court, effective ~~October 1, 2002~~ New Date)**

PART I - GENERAL REGULATIONS

REGULATION 101. Applicability and Citation of Regulations

101:1 Adoption and Approval. These regulations have been adopted by the Committee on Character and approved by the Supreme Court pursuant to Rule 1:25.

101:2 Citation. These regulations shall be referred to as "Regulations Governing the Committee on Character" of the New Jersey Supreme Court and may be cited as, for example, "RG. 102".

REGULATION 102. Membership and Structure

102:1 Appointments. The Supreme Court shall appoint the Committee on Character (hereinafter known as "the Committee"), which shall consist of such members of the bar as the Court may determine. Members shall serve for terms of three (3) years and may be reappointed at the discretion of the Supreme Court. A vacancy shall be filled by the Court for the unexpired portion of the member's term. A member participating in a matter when his or her term expires may continue to participate until certification is granted or withheld.

102:2 Statewide Chair. The Court shall annually designate a member of the Committee to serve as Statewide Chair. The Statewide Chair shall be the administrative head of the Committee and the Statewide Panel and shall perform such other duties as are set forth in these Regulations. In the absence ~~or inability to serve~~ of the Statewide Chair or the Statewide Chair's inability to serve, the functions of that position shall be performed by the Part Chair who is senior in service and able to serve.

102:3 Parts and Membership. The Committee shall be divided into such number of Parts as the Supreme Court may determine with one member of each Part designated as its Chair. Each Part shall be assigned a specified area. The Statewide Chair may assign members of one Part temporarily to a different Part or assign files from one Part to another Part.

102:4 Statewide Panel. The Statewide Chair together with the individual Part Chairs shall comprise the Statewide Panel, which shall be the policy board of the Committee and shall perform such other duties as are set forth in these Regulations.

a. Quorum. Four (4) members of the Statewide Panel shall constitute a quorum and all administrative determinations shall be made by a majority of the quorum.

b. Operations. The Statewide Panel shall, consistent with these Regulations, establish procedures, publish forms, and maintain records as required for the conduct of the Committee's operations.

102:5 Secretary. The Secretary of the Board of Bar Examiners shall serve as the Secretary to the Committee ~~on Character~~. The Secretary shall maintain the files of the Committee and shall be authorized to receive the Certified Statement, alternatively known as the Character and Fitness Questionnaire, of each candidate for admission to the bar, together with any other materials the Committee shall deem relevant. The Secretary shall be responsible for the transmission of the record ~~on to a Committee member for every candidate who has applied to sit for the bar examination for admission to the bar in this State~~ a member of the appropriate Part.

REGULATION 103. Committee Purpose and Authority

103:1 Purpose. It shall be the purpose and duty of the Committee on Character to determine the fitness to practice law of each candidate for admission to the Bar of the State of New Jersey and

thereby to promote the public interest and to protect the integrity of the legal profession. The Committee shall review the record established pursuant to these Regulations and shall certify each candidate's fitness to the Supreme Court or shall recommend the withholding of such certification or admission subject to conditions.

103:2 Authorization. One member may exercise the full jurisdiction and authority of the Committee as to certification pursuant to RG. 302. ~~The w~~Withholding of certification and admission with conditions shall be in accordance with RG. 303 and RG. 304. Review of the decisions by RG. 303 hearing panels shall be in accordance with RG. 303 and 304.

103:3 Discretion of Committee. Except as provided by these Regulations, the Committee shall have complete discretion over its procedures.

PART II - REQUIREMENTS OF CANDIDATES

REGULATION 201. Submissions

201:1 Statement of Candidate. Each candidate shall file a Certified Statement ~~of Candidate~~ with the Secretary to the Committee ~~on Character~~ on or before a date set by the Committee. The Certified Statement shall be in the form prescribed by the Committee.

201:2 References. The Secretary or any member of the Committee before whom an application is pending may request that the references listed by the candidate in the Certified Statement supply information on forms prescribed by the Committee. The responses of any named references are confidential and will not be released to the ~~candidate applicant~~, except when they are to be used as evidence pursuant to RG. 303 or RG. 304 of these Regulations.

201:3 Additional Investigation. The Secretary or any member of the Committee may request information or documentation from candidates and appropriate sources including, but not limited to, named references, current or former employers, Federal and State regulators or agencies, other bar jurisdictions or licensing and regulating agencies, law enforcement agencies, educational institutions, financial institutions, or medical personnel.

201:4 Waivers. Candidates shall submit such written waivers, releases, or consents as the Committee may require to enable it to have access to all records involving conduct, past and present.

The candidate's file will be deemed abandoned if the candidate withdraws or modifies his or her written waivers, releases or consents.

201:5 Certification by Candidate. The candidate's signature on any document, letter or other communication to the Committee shall constitute a certification that the candidate has read the documents and has certified to the truthfulness of the contents. The signature is equivalent to and has the same meaning and effect as the certification language contained in RG. 202:4. If the candidate is submitting documents as part of an electronic or on-line bar application and Certified Statement, typing the candidate's name and/or initials will have the same force and effect as a signature.

REGULATION 202. Duties of Candidates

202:1 General Duty of Candidate. It shall be the duty of each candidate for admission to the Bar of the State of New Jersey to disclose all available information requested by the Committee ~~on~~ **Character**. Candidates shall be required to demonstrate their fitness to practice law in this State and their possession of the requisite traits of honesty, integrity, financial responsibility, and trustworthiness.

202:2 Time Limitation on Candidate Response to the Committee. Each candidate must diligently pursue his or her certification by the Committee. Candidates must respond in writing to inquiries and forward requested documentation to the reviewing member or appropriate staff for the Committee or upload the information to their on-line bar account within thirty (30) days of the inquiry, unless an extension of time for good cause is requested in writing prior to the expiration of the thirty (30) days. A grant of an extension shall be for a date certain.

202:3 Failure to Respond in a Timely Manner. In the absence of good cause shown to the contrary, failure to respond to inquiries by the Committee or to make a timely request for an extension of time to respond shall result in a declaration that the application for admission of the candidate has been abandoned. The Secretary of the Board of Bar Examiners shall notify the candidate in writing at the candidate's last known address. In no event shall the candidate's eligibility terminate sooner than ninety (90) days after the release of the examination results.

202:4 Continuing duty to disclose. A candidate shall have a continuing duty to disclose changes that occur with respect to any information given in response to questions ~~on~~ in the Certified

Statement until the attorney oath has been administered and admission confirmed by the Board of Bar Examiners or Committee. All additional information shall be promptly communicated by the candidate to the Secretary in an amendment to the Certified Statement. The candidate must provide the following certification language with each update, "I certify that the foregoing statements by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment." (R. 1:4-4(b).)

202:5 Failure to cooperate. A candidate's failure or refusal to supply information deemed relevant by the Committee or otherwise to cooperate with the Committee may be grounds for the withholding of certification. A candidate's file will be deemed abandoned if the candidate withdraws or modifies his or her written waivers, releases or consents.

202:6 Child support obligations. Each candidate must certify as part of the Certified Statement of ~~Candidate~~ that he or she is not the obligor of a child support order, or that the candidate is the obligor of a child support order but does not owe past-due support ~~in an amount equal to or exceeding the amount of child support payable for six (6) months~~ and has complied with all health insurance provisions related to the child, and that the candidate is not the subject of a child-support related warrant. If the candidate cannot or does not so certify, ~~certification~~ the candidate shall be ineligible for consideration for admission to the bar shall be withheld unless the candidate can provide satisfactory proof of an inability to pay and proof of a history of good faith efforts to pay the support and arrears when the candidate is able to do so. Upon receiving notification that the candidate cannot be certified for this reason, the candidate may not seek to reinstate his or her application for one (1) year from the date of the notification of ineligibility. If the reinstatement request is filed more than three (3) years after the candidate sat for the bar examination, retaking and passing the bar examination shall be a prerequisite for consideration of the application. The Supreme Court may, for good cause shown, waive the retaking of the examination pursuant to RG. 402:3.

202:7 Student loan obligations. ~~Each candidate must certify a~~ As a part of the Certified Statement, each candidate must certify the loan number, lender, and the amount of each student loan and that he or she is not in default of any state, federal, or governmentally guaranteed student loan. If a candidate does not so certify, or if the candidate does not provide satisfactory proof of ~~arrangements~~ an inability to pay and that the candidate has made good faith efforts to cure the default after having been requested to do so by the Committee, a RG. 303 hearing shall be held to determine whether

~~certification should be withheld~~ the candidate shall receive notification that the candidate is ineligible for consideration for admission. Upon receiving notification that the candidate cannot be certified for this reason, the candidate may not seek to reinstate his or her application for one (1) year from the date of the notification of ineligibility. If the reinstatement request is filed more than three (3) years after the candidate sat for the bar examination, retaking and passing the bar examination shall be a prerequisite for consideration of the application. The Supreme Court may, for good cause shown, waive the retaking of the examination pursuant to RG. 402:3. .

202:8 Probation and parole ineligibility due to criminal conduct. ~~(a) Criminal Offenses.~~ A candidate who is on probation or parole from a sentence for a ~~has yet to complete a custodial sentence in connection with a criminal offense shall not be eligible~~ be deemed ineligible for consideration by the Committee. ~~until the probation or parole has been successfully completed.~~ If the relevant conduct occurred in New Jersey, the Committee shall apply the laws of New Jersey to determine if it constitutes a criminal offense for the purposes of this regulation. If the relevant conduct occurred in another state, the Committee may apply either the laws of that jurisdiction or the laws of New Jersey to determine if it constitutes a criminal offense for the purposes of this regulation. A candidate who is subject to the terms of this Regulation shall have the right to petition the Statewide Panel for a waiver of the ineligibility provision based on the demonstration of exceptional circumstances. If the Statewide Panel grants the petition, the Committee shall conduct a hearing before a RG. 303 Panel to consider the candidate's current character and fitness to be admitted to practice.

~~(b) Motor Vehicle Violations.~~ Paragraph (a) of this regulation shall not apply either to motor vehicle violations under Title 39, including driving while intoxicated, or to a conviction in another jurisdiction for a criminal offense that would constitute a motor vehicle violation under Title 39 in New Jersey.

202:9 Severe misconduct during another state's bar examination. A candidate who is alleged to have engaged in severe misconduct on a bar examination in another state shall not be eligible for consideration in this state until the state in which the severe misconduct occurred has completed its investigation.

202:10 Petition based on exceptional circumstances. A candidate who is ineligible for

consideration for certification due to child support obligations (RG. 202:6), student loan obligations (RG. 202:7), criminal conduct (RG. 202:8), or severe misconduct during another state's bar examination (RG. 202:9), shall have the right to petition the Statewide Panel for a waiver of the ineligibility provision based on the demonstration of exceptional circumstances. If the Statewide Panel grants the petition, the Committee shall conduct a hearing before a RG. 303 Panel to consider the candidate's current character and fitness to be admitted to practice.

PART III CERTIFICATION PROCEDURES

REGULATION 301. Investigations

301:1 Investigation assistance. A member of the Committee ~~on Character member~~ may request a detailed investigation of facts and circumstances bearing on a candidate's fitness to practice law. Staff of the Committee shall, to the extent practicable, provide investigative assistance as needed. The Secretary may arrange for additional investigation or other assistance from the Administrative Office of the Courts or such other agency as may be appropriate.

301:2 Special Master. When, in the discretion of the Statewide Panel, the issues involving the fitness of a candidate for admission to the bar require extensive interviews or additional resources, the Panel may apply to the Supreme Court for the appointment of a Special Master to make findings of fact and recommended conclusions. The report will be submitted to the Statewide Panel for decision before being forwarded to the Supreme Court. A Special Masters shall conduct ~~their~~ hearings in accordance with the provisions of RG. 303:5. Retired judges may serve pro bono or, if they are on recall, may be paid at the rate in effect for judges on recall service. A Special ~~counsel~~ Master may serve pro bono or may be paid the per diem rate in effect for single arbitrators under Rule 4:21A-5.

REGULATION 302. Initial Review and Certification

302:1 Conduct Requiring Investigation. The appropriate Part of the Committee, or such member or members thereof so assigned, or the staff of the Committee shall review the candidate's Certified Statement of Candidate and related documents. If, on such review, further information is deemed desirable, a request therefore may be made of the candidate or any other appropriate source. The

request may be made in person or by telephone, e-mail, ~~or~~ mail, or through the online system. Conduct requiring additional action may include, but is not limited, to the following:

- a. Nondisclosure of information;
- b. Academic dishonesty or misconduct;
- c. Unlawful conduct, including arrests, whether resulting in conviction, dismissal, or expungement;
- d. Failure to file required federal, state, or local tax returns or to pay tax obligations;
- e. Financial misrepresentation, mismanagement, irresponsibility, or neglect;
- f. Default or arrearages in the payment of student loans;
- g. Allegations of fraud, perjury, or false swearing;
- h. Misconduct in employment;
- I. Evidence of moral turpitude;
- j. Having been disciplined as a member of a profession, trade or occupation, including but not limited to the practice of law;
- k. Failure to comply with Court orders, such as support and alimony orders;
- l. Domestic violence;
- m. Abuse of legal process or history of vexatious law suits;
- n. Current substance abuse; or
- o. Evidence of ~~current psychotic psychiatric disorders including paranoia, bi-polar disorder, or schizophrenia~~ that may affect the candidate's ability to practice law in a competent, ethical, or professional manner.
- p. Misconduct during a bar examination.
- q. Investigation or determination of unauthorized practice of law;
- r. The making of false statements or omitting material information in connection with an application to sit for a bar examination;
- s. Denial of admission to the bar in another jurisdiction;

t. Acts which demonstrate disregard for the rights or welfare of others; and

u. Any other conduct or condition which reflects adversely on moral character or fitness of the candidate to practice law.

302:2 Interview Procedures. 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~~ a Committee member or members. The interview shall be conducted in private ~~unless the candidate requests otherwise~~ and the Committee member or members shall have the sole discretion to determine who may be present. 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 at least seven (7) business days in advance of the interview. 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 by the Committee a copy shall be furnished to the candidate.

a. Determination following interview.

1. Interviewing Committee member's or members' recommendation to certify candidate. If the evidence adduced during the interview, or within a reasonable time after the interview, clearly and convincingly demonstrates that the candidate is fit for certification, the interviewing Committee member or members may certify the candidate pursuant to RG. 302:3 and shall not issue a report.

2. Interviewing Committee member's or members' recommendation to conduct a formal hearing. If following the interview, or a reasonable time after the interview, the interviewing Committee member or members believe that a hearing is necessary, then such a hearing shall be scheduled and held on a subsequent date, pursuant to the provisions set forth in RG. 303. If such a determination is made, the interviewing Committee member or members shall not issue a report, but shall provide written notice to the candidate that a hearing is required.

3. Interviewing Committee member's or members' recommendation to certify the candidate with conditions by consent. If the evidence adduced during the interview, or within a reasonable time after the interview, clearly and convincingly demonstrates that the candidate is fit for certification, but requires certification subject to conditions, the interviewing Committee member or

members may offer the candidate the opportunity to consent to these conditions, without conducting a hearing and without the issuance of a report. In such cases, the candidate shall be provided with a Stipulation of Conditions by Consent, which shall set forth the basic findings of facts of the interviewing Committee member or members and the recommended conditions. The recommended conditions shall relate to the current character and fitness of the candidate, including, but not limited to, the following:

a. Inappropriate behavior or conduct;

b. Lack of candor;

c. Substance abuse;

d. Psychiatric disorders that affect the candidate's ability to practice law in a competent, ethical and professional manner;

e. Financial responsibility issues; and

f. Any other conduct or condition relating to the essential eligibility requirements.

The candidate shall be given thirty (30) days to sign the Stipulation. As a requirement of any Stipulation, the candidate must assert that: consent is freely and voluntarily given; the candidate has the right to consult with counsel prior to executing the Stipulation, and that if he/she has not done so, waives the right by executing the Stipulation; the candidate has not been subjected to coercion or duress; the candidate is fully aware of the implications of executing the Stipulation; and the candidate is not under any disability, mental or physical, or under the influence of any medication, intoxicants, or other substances that would impair the candidate's ability to knowingly and voluntarily execute the Stipulation.

If the candidate timely signs the Stipulation, the Stipulation shall then be presented to the interviewing Committee member or members for signature. All executed Stipulations shall be reviewed and approved by the Part Chair and the Statewide Panel Chair. The Part Chair or the Statewide Panel Chair may approve the Stipulation or reject the Stipulation and remand the matter for: (i) a full hearing pursuant to RG 303; or (ii) for consideration of modifications to the conditions as proposed by the Part Chair or the Statewide Panel Chair. The Statewide Panel shall review all approved Stipulations pursuant to RG. 304:1(b). If the candidate does not timely sign the Stipulation, then a hearing shall be scheduled and held on a subsequent date, pursuant to the provisions set forth

in RG. 303. If such a determination is made, the interviewing Committee member or members shall not issue a report, but shall provide written notice to the candidate that a hearing is required.

302:3 Determination of Certification. ~~On a determination for the~~ If the Committee determines that a candidate is fit to practice law, the member or members of the Committee shall so certify the candidate to the Supreme Court.

302:4 Consequences of failure to certify. If a candidate has not been certified by the Committee at the time the Board of Bar Examiners reports the results of the bar examination, such results shall not be withheld pending final Committee action. The attorney oath, however, shall not be administered to any candidate nor shall admission to the bar be given effect prior to a certification of fitness by the Committee. If a candidate attempts to be sworn in prior to Committee certification for fitness but completes an oath card and is registered, the mater may be referred to the Office of Attorney Ethics for review, if appropriate.

302:5 Revocation of Certification. Certification of a candidate may be revoked by the Committee at any time prior to the administration of the oath and/or entry of the information into the Roll of Attorneys on the receipt of information warranting further review. The Committee may take further action as it deems appropriate.

REGULATION 303. Part Hearing

303:1 When Held. If a single member of the Committee determines not to certify a candidate as fit to practice law or desires to have a determination made by a Panel, a hearing shall be conducted by three (3) members of the Committee. In the discretion of the assigned member ~~and subject to the approval of the Part Chair,~~ the candidate may waive entitlement to a three-member Panel and proceed with a hearing before the assigned member of the Committee.

303:2 Reasons for a hearing. Reasons for a hearing may include, but are not limited to, evidence of the conduct specified in RG. 302:1.

If a factual question arises in respect of the candidate's certification pursuant to RG. 202:6 or RG. 202:7, a hearing shall be held. The Panel shall make findings of fact on whether the candidate is in violation of one or more of the conditions contained in the Regulations. If the Panel determines that the candidate has failed to meet or comply with one or more of the conditions of the

Regulations, the Panel shall report same for final decision on the candidate's eligibility for admission pursuant to RG. 304:2.

A determination that the candidate is not currently in violation of the requirements of RG. 202:6 in respect of child support obligations shall not prohibit the Committee from inquiring into the impact of past violations of child support orders on the current fitness and character of the candidate.

303:3 Presumption from Nondisclosure. There shall be a rebuttable presumption that nondisclosure of a material fact ~~on~~ in the Certified Statement of Candidate is prima facie evidence of the lack of good character.

a. The presumption shall be the same whether the nondisclosure is discovered prior or subsequent to the applicant's admission to the bar.

b. The presumption may be rebutted by clear and convincing evidence of mistake or of rehabilitation and current good character.

303:4 Notice. The hearing shall be conducted on at least seven days' written notice to the candidate. The notice shall state the reasons for the hearing. ~~When possible, the Committee shall schedule the hearing within ninety days of the official date for the admission of successful applicants. Once notice has been given of hearing, the candidate and/or candidate's counsel shall communicate only through designated Committee staff and not directly with the hearing panel, Statewide Panel, or the Court.~~

303:5 Procedures. A candidate has the right to be represented by counsel, to present witnesses, and to cross-examine witnesses. The hearing shall be conducted in private ~~unless the candidate requests otherwise.~~ The Panel shall have the sole discretion to determine who may be present in the hearing room and whether to sequester witnesses. All testimony shall be given under oath. Any member of the Committee is authorized to administer oaths to the candidate and such witnesses as may appear before the Committee. Testimony and written documentation need not be presented in strict accordance with the rules of evidence. A verbatim record may be made at the request of either the candidate or the Committee. Whenever a transcript of the record is ordered by the Committee, a copy shall be furnished to the candidate. The Committee may issue subpoenas in the same manner as provided by Rule 1:20-7(i).

303:6 Burden of Proof. The candidate shall have 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 this State. Among the factors the Committee shall take into consideration are the:

- a. Severity of the conduct;
- b. Cumulative nature of the conduct;
- c. Candidate's candor and honesty before the Panel;
- d. Age of the candidate at the time of the alleged misconduct; and
- e. Any rehabilitation evidence presented by the candidate.

303:7 Rehabilitation Evidence. The candidate may present rehabilitation evidence including, but not limited to:

- a. Positive social conduct and community service;
- b. Absence of recent misconduct;
- c. Reputation testimony;
- d. Demonstration of the candidate's understanding of responsibility to the administration of justice and the practice of law.

Substance abuse or mental illness may not be considered a defense or justification for misconduct, but evidence of treatment and recovery may be offered to support a claim of rehabilitation.

303:8 Determination; Report and Recommendations. ~~On the conclusion of the hearing, if~~ the evidence adduced during the hearing or, within a reasonable time after the hearing, 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 and shall not issue a report. In all other matters, unless the candidate withdraws the application pursuant to RG. 304:5(b) or the candidate is offered and has accepted Conditions by Consent pursuant to RG. 303:8(a)(4) below, 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. Determination by Hearing Panel.

1. Hearing Panel recommendation to certify candidate. Except as specified above, ~~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.

b2. Hearing Panel recommendation to withhold certification of candidate. If the Panel ~~determines to recommends~~ that certification be withheld, ~~it the Panel~~ shall file a report with the Secretary and the Statewide Panel. Reasons for withholding certification may include, but need not be limited to, the criteria listed in RG. 302:1. A copy of the report 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~~ If a candidate's certification is withheld, it is equivalent to a denial of admission.

~~e. 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 substance abuse, 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.~~

3. Hearing Panel recommendation to certify candidate for admission with conditions by written report. Except as specified below, if the Panel recommends certification of the candidate under certain conditions, it shall file a report with the Secretary and the Statewide Panel. A copy of the Report shall be sent forthwith to the candidate. Conditions established by the Panel shall relate to the current character and fitness of the candidate including, but not limited to, the following:

- a. inappropriate behavior or conduct;
- b. lack of candor;
- c. substance abuse;
- d. psychiatric disorders that affect the candidate's ability to practice law in a competent, ethical, and professional manner;
- e. financial responsibility;

f. another conduct or condition relating to the essential eligibility requirements.

4. Hearing Panel recommendation to certify candidate for admission with Stipulation of Conditions by Consent. If the Panel unanimously recommends to certify the candidate with conditions pursuant to RG. 303:8(a) (3) above, it may, in its discretion, offer the candidate the opportunity to consent to these conditions, without the issuance of a report. In such cases, the candidate shall be provided with a Stipulation of Conditions by Consent, which shall clearly set forth the recommendations of the Panel.

The candidate shall be given thirty (30) days to sign the Stipulation. As a requirement of any Stipulation, the candidate must assert that: consent is freely and voluntarily given; the candidate has the right to consult with counsel prior to executing the Stipulation, and that if he/she has not done so, waives the right by executing the Stipulation; the candidate has not been subjected to coercion or duress; the candidate is fully aware of the implications of executing the Stipulation; and the candidate is not under any disability, mental or physical, or under the influence of any medication, intoxicants, or other substances that would impair the candidate's ability to knowingly and voluntarily execute the Stipulation.

If the candidate timely signs the Stipulation, the Stipulation shall then be presented to the Chairperson of the Panel for his or her signature and the signed Stipulation shall be forwarded to the Statewide Panel for review in accordance with RG. 304:1(b). If the candidate does not timely sign the Stipulation, a written report shall be issued by the Panel on a subsequent date, pursuant to the provisions of RG. 303:8(a) (3) above.

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

304:1 Appeal by Candidate. ~~A candidate may appeal a recommendation by a RG. 303 Hearing Panel to withhold certification or to certify with conditions. The appeal shall be to an Appeal Panel of three persons, at least one of whom shall be a member of the Statewide Panel.~~

a. Time for Appeal. ~~A candidate shall initiate the appeal by filing a written notice of appeal with the Secretary within fifteen days of the filing date of the report by the Hearing Panel. The notice of appeal shall state specific exceptions to the recommendation of the hearing panel, identifying the~~

errors allegedly committed.

~~b. Record on Appeal. The appeal shall be decided on the record before the Hearing Panel. No additional testimony, exhibits, documents or other proofs, or oral argument shall be considered unless the Appeal Panel, in its discretion, so directs.~~

~~e. Briefing on Appeal. No later than thirty days after the filing of the notice of appeal, the candidate shall submit an original plus four copies of a brief in support of the appeal. The Appeal Panel may direct the Hearing Panel to submit a written response to the candidate's brief.~~

~~d. Report of Appeal Panel. After consideration of the written arguments, the Appeal Panel shall file its report and recommendation with the Secretary and the Supreme Court for approval pursuant to RG. 304:3. A copy shall be sent forthwith to the candidate. The Appeal Panel may remand the case to the Hearing Panel for further proceedings. If the Appeal Panel's recommendation is to 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.~~

304:1 304-2 Review by Statewide Panel.

a. 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 candidate shall have fifteen (15) days after the issuance of a RG 303 report to submit additional information to the Statewide Panel for its review. The candidate shall submit an original and eight (8) copies of the information that the candidate wishes the Statewide Panel to review to Counsel to the Committee.

The Statewide Panel shall have plenary powers to:

- a1. Approve the recommendations of the RG. 303 Hearing Panel;
- b2. Modify the recommendation, including recommending, rejecting, or modifying proposed conditions;
- e3. Recommend the withholding of certification; or
- d4. Remand the matter to the Hearing Panel for further proceedings.

b. Stipulations of Conditions by Consent. The Statewide Panel shall review every executed Stipulation of Conditions by Consent issued pursuant to RG. 302:2(a) (3) and RG. 303:8(a) (4)

above. The Statewide Panel shall have plenary powers to:

1. Approve the Stipulation;

2. Modify the Stipulation, including recommending, rejecting, or modifying the agreed upon conditions;

3. Recommend the withholding of certification; or

4. Remand the matter to a Hearing Panel for further proceedings.

c. The Statewide Panel shall file its report and recommendation with the Secretary who shall refer the report to the Supreme Court for final approval pursuant to RG. 304:32. A copy shall be sent forthwith to the candidate. If the Statewide Panel's recommendation is to withhold certification, or to certify with modified conditions than those contained in the Stipulation, the candidate shall have fifteen (15) days from the filing date of the report within which to submit an original plus eight (8) 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~~.

304:2 ~~304:3~~ Determination by Supreme Court. The Supreme Court shall make the final determination 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. The Court shall withhold the certification of any candidate found to be in violation of one or more of the conditions contained in RG. 202:6.~~

304:3 ~~304:4~~ Request to Reopen. Following a final decision to withhold certification, which is a denial of admission, a candidate may reapply for admission when the candidate can demonstrate clear and convincing evidence of rehabilitation and current fitness to practice law, but no earlier than one (1) year from the date of the final decision or as otherwise provided in the order of the Supreme Court. The Supreme Court may require a candidate seeking to reopen his or her application to retake the bar examination if the examination on which admission would otherwise be based occurred more than ~~two~~three (3) years prior to the date the candidate is eligible to reapply for admission.

a. The candidate shall submit an original verified petition and ~~four~~eight (8) copies with appropriate supporting documentation attesting to ~~his~~the candidate's rehabilitation and current fitness to practice law as the request to reopen. If the petition is granted, the candidate must submit

another four (4) copies of the petition with appropriate supporting documentation for use by the hearing panel convened for this purpose.

b. The State Chair or, in the event of the Chair's unavailability, the most senior Part Chair shall appoint a ~~three-member panel~~ of three (3) members to review the petition and make a recommendation on the petition to the Supreme Court.

1. The panel may appoint a member of the Committee to investigate and report on the candidate's petition.

2. The record before the panel shall consist of the candidate's existing file, the verified petition and supporting documentation together with such additional evidence as may be considered by the panel in its discretion.

3. The panel may, in its discretion, take testimony or hear oral argument on the petition.

4. The panel shall prepare and forward a report and recommendation to the Supreme Court for appropriate action.

A candidate who has ~~had certification withheld~~ been deemed ineligible for consideration for admission solely because of his or her failure to meet the conditions set forth in RG. 202:6 (Child Support Obligations) may apply ~~for reconsideration pursuant to~~ reopen in accordance with this-these Regulations and on the submission of satisfactory proof of his or her compliance with all child support orders.

A candidate who has ~~had certification withheld~~ been deemed ineligible for consideration for admission solely because of his or her ~~default on state, federal, or governmentally guaranteed student loans~~ failure to meet the conditions set forth in RG. 202:7 (Student Loan Obligations) may apply ~~for reconsideration pursuant to~~ reopen in accordance with this-these Regulations and on submission of satisfactory proof that the candidate has made satisfactory arrangements for the repayment of each defaulted loan.

304:4 ~~304:5~~ Withdrawal of Application; Reinstatement.

a. A candidate may withdraw his or her application at any time prior to the ~~expiration of the time for appeal set forth in RG. 304:1~~ submission to the Statewide Panel of the RG 303 report and recommendation or an executed Stipulation of Conditions by Consent. Failure to give the Committee

written notice of the withdrawal in a timely manner will result in the matter proceeding to disposition before the Supreme Court pursuant to RG. 304:32.

b. A candidate who withdraws may not seek to reinstate his or her application for one (1) year from the date of withdrawal. If the reinstatement request is filed more than ~~two~~three (3) years after the candidate sat for the bar examination, retaking and passing the examination shall be a prerequisite for favorable consideration of the application. The Supreme Court may, for good cause shown, waive the retaking of the examination.

c. A candidate who successfully reinstates his or her application must submit a current Certified Statement of Candidate and updated attachments and be fingerprinted again. The record before the reviewing RG. 303 Panel will consist of the original file, including but not limited to all transcripts, exhibits, briefs, and reports, supplemented as may be appropriate by testimony and exhibits presented to the Panel. To the extent feasible, the Statewide Chair will appoint the original Panel members to consider the renewed application.

304:5 Petitions for Termination from Conditions.

a. If the Court grants conditional admission to a candidate, the conditionally admitted attorney must comply with the terms of the Order and file quarterly certifications as directed by the Committee.

b. A list of conditionally admitted lawyers shall be transmitted each month to the Office of Attorney Ethics. In the event a complaint of unprofessional conduct is filed against the conditionally admitted lawyer or there is a violation of the Order of conditional admission, the Committee's file may be transmitted to the Office of Attorney Ethics upon the request of that Office.

c. The terms of the conditional admission shall remain in place until subsequent Order of the Court modifying or terminating the conditional admission.

d. Any candidate seeking to terminate the conditions of his or her conditional admission at the end of the period set forth in the Order shall cause to be filed an original and eight (8) copies of a petition that shall be reviewed by the Statewide Panel.

1. After review of the petition, the Statewide Panel shall recommend action to terminate, modify, or extend conditions of admission and the Court shall review same and issue an Order;

2. If the Statewide Panel deems it necessary to take testimony from the conditionally admitted attorney, the Chair of the Statewide Panel may appoint a panel consisting of three (3) members of the Statewide Panel to conduct such hearing and issue a report that shall be reviewed by the Court.

3. The Statewide Panel or any subpanel may require the conditionally admitted attorney to obtain an evaluation or provide further information before making its determination. Failure to comply with the requests of the Committee may cause the file to be transmitted to the Office of Attorney Ethics for review.

REGULATION 305. Revocation of Certification

305:1 Revocation of prior certification. When the Committee receives information that is unfavorable or otherwise requires the attention of the Committee in respect of a previously-certified candidate whose name has not been entered on the Roll of Attorneys, the original certification shall be revoked and, whenever possible, the candidate's file shall be forwarded for review to the member who previously granted certification. If the member is no longer on the Committee, the Part Chair or his or her designee will review the matter. This section shall apply whether the information is obtained from the candidate as required by RG. 202 or from a third party. If the information is received after the attorney's name has been entered on the Roll of Attorneys and the Committee deems the information significant, the matter will be referred to the Office of Attorney Ethics for review.

PART IV - COMMITTEE RECORDS

REGULATION 401. Confidentiality; Retention

401:1 Confidentiality. All Certified Statements, reference letters, records, files, proceedings and reports of the Committee ~~on Character~~ shall be confidential and shall not be disclosed or attended by anyone except as authorized by these rules or as provided by the Supreme Court and as follows:

a. ~~On the scheduling of oral arguments before the Supreme Court, in which event the recommendation of the Committee that is the subject thereof, together with any briefs filed pursuant to an order of the Court, shall be made public; or~~

b. At the request of or with the consent of the candidate in which event the Certified Statement of Candidate may be released; or

c. At the request of the New Jersey Office of Attorney Ethics, the Disciplinary Review Board, or the Committee on the Unauthorized Practice of Law in connection with the ~~its~~ consideration and determination of the appropriate sanctions that should be imposed on an attorney who has engaged in unethical conduct; or

d. At the request of a jurisdiction to which the candidate has applied for admission to the bar; or

e. By order of the Supreme Court, on notice to the candidate unless the Court otherwise orders.

401:2 Retention. Certified Statements of Candidate, letters from candidate's references, and other relevant documents shall be retained ~~permanently~~ as established by Records Retention Schedule of the Supreme Court Clerk's Office. All Committee records may be electronically stored ~~microfilmed~~ after one (1) year and the originals thereupon destroyed.

REGULATION 402. Miscellaneous Procedures

402:1 Committee on Character and Staff Immunity. Members of the ~~Committee on Character~~ and their staff, ~~e~~Committee staff, and lawfully appointed designees shall be absolutely immune from liability, whether legal or equitable in nature, for any action or omission in the performances of their official duties.

402:2 Third-Party Immunity. Persons disclosing information in good faith to the ~~Committee on Character~~ and persons supplying information to the ~~Committee on Character~~ pursuant to an authorization and release executed by the candidate shall be absolutely immune from liability, whether legal or equitable in nature.

402:3 Validity of bar examination results. The results of a New Jersey bar examination shall be valid for three (3) years from the date the exam was administered. Uniform Bar Examination results also are valid for only three (3) years from the original qualifying score. The Supreme Court may, for good cause shown, waive the retaking of the examination after review of a petition filed by the

candidate.