

RULE 1:23. Board Of Bar Examiners

1:23-1. Appointment; Organization

The Supreme Court shall appoint a Board of Bar Examiners consisting of such number of attorneys of this State as it shall from time to time determine. Each member shall serve for a term of three years, and may be reappointed to three successive full terms. A vacancy occurring during a term shall be filled for the unexpired portion thereof. The Supreme Court shall designate one of the members of the Board as its Chair and shall appoint a secretary to the Board who shall not be a member.

Note: Source -- R.R. 1:19-1(a) (b) (e). Amended July 7, 1971, to be effective September 13, 1971; amended October 1, 1992, to be effective January 1, 1993; amended July 5, 2000 to be effective September 5, 2000.

1:23-2. Duties; Procedure

Subject to the approval of the Supreme Court, the Board shall prepare and conduct examinations for applicants for admission as attorneys, prescribe rules, forms and procedures relating thereto and state the topics upon which applicants will be examined.

Note: Source -- R.R. 1:19-1(c) (d).

1:23-3. Confidentiality; Immunity

(a) The files and records maintained by the Board of Bar Examiners and the Committee on Character shall be confidential, subject to the rules and regulations of the Board and the Committee and unless otherwise ordered by the Supreme Court.

(b) Members of the Board of Bar Examiners, the Committee on Character, and their lawfully appointed designees and staff shall be absolutely immune from suit, whether legal or equitable in nature, based on their respective conduct in performing their official duties. The Supreme Court shall request the Attorney General to represent bar admission authorities in all civil or criminal litigation in state or federal courts.

Note: Adopted November 7, 1988 to be effective January 2, 1989; title amended, former text amended and designated as paragraph (a), and new paragraph (b) added July 10, 1998 to be effective September 1, 1998.

1:23-4. Funds

The operations of the Board of Bar Examiners and the committee on character shall be supported by the fees paid by candidates for admission to the bar, as set forth in rules and regulations approved by the Supreme Court. To the extent that the Board of

Bar Examiners and committee on character are not self-supporting, funds necessary for their operation shall be provided by the Administrative Office of the Courts.

Note: Adopted March 15, 1989, to be effective immediately.

1:23-5. Bar Examination Test-Taking Improprieties

(a) All allegations of impropriety in the taking of a bar examination by a bar applicant who has not been admitted to practice law in this state shall be investigated by the Assistant Secretary to the Board of Bar Examiners (Assistant Secretary) and staff working under the direction of the Assistant Secretary. Such an investigation may include interviews with the applicant or witnesses as the Assistant Secretary and staff deem appropriate.

(b) Upon completion of the investigation, the Assistant Secretary shall make a determination whether the charges of impropriety have been established by a preponderance of the credible evidence and, if so, recommend appropriate action. The Assistant Secretary shall report the determination and any recommendations to the Board of Bar Examiners (Board) with notice to the applicant. The applicant shall have 14 days from the date of notice to submit to the Board a written response to the report and any recommendations of the Assistant Secretary.

(c) The Board may adopt the determination and recommendations of the Assistant Secretary at which point it shall so notify the applicant. Alternatively, the Board may, in its sole discretion, conduct a further investigation. Such further investigation may include interviews with the applicant or witnesses as the Board deems appropriate. If additional interviews are conducted they shall be conducted pursuant to the instructions of the Chair of the Board provided, however, that all interviews shall be attended by no fewer than three members of the Board as designated by the Chair as well as by the Assistant Secretary. Upon completion of any further investigation, the Board shall issue its own report and recommendations of appropriate action, with notice to the applicant.

(d) If the Board adopts a determination of the Assistant Secretary that the charges have been established by a preponderance of the evidence or issues its own determination to that effect, the applicant shall have 30 days from the date of notice of that determination to file a petition with the Supreme Court requesting review of the determination and any of the recommended actions.

(e) If the applicant does not file a petition within the 30 days as provided by (d) above or if the Supreme Court denies a petition, the Board's determination and any recommendations shall become final. If the Supreme Court grants a petition, the matter will proceed before the Court in accordance with the directions of the Clerk of the Court. If the Supreme Court grants a petition, the Court shall finally dispose of the matter by order with or without opinion, as it deems appropriate.

(f) Prior to the issuance of a determination and recommendations by the Board, confidentiality shall be maintained to the extent possible. Upon a final determination that the charges have been established by a preponderance of the evidence, the Board shall so notify the Committee on Character and other jurisdictions to which the applicant has applied to take the examination.

(g) If allegations of impropriety arise after the bar applicant has been admitted to practice law in this state, the matter shall proceed as any other attorney disciplinary matter in accordance with R. 1:20.

Note: Adopted July 28, 2004 to be effective September 1, 2004; former text deleted and new text adopted August 1, 2016 to be effective September 1, 2016.