

1 Rule 15-708. Character and fitness.

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3 (a) Standard of character and fitness. A Licensed Paralegal Practitioner's conduct should
4 conform to the requirements of the law, both in professional service to clients and in the
5 Licensed Paralegal Practitioner's business and personal affairs. A Licensed Paralegal Practitioner
6 should be one whose record of conduct justifies the trust of clients, adversaries, courts, and
7 others with respect to the professional duties owed to them. An Applicant whose record
8 manifests a significant deficiency in honesty, trustworthiness, diligence, or reliability shall be
9 denied licensure. The Applicant has the burden of proof to establish by clear and convincing
10 evidence her or his fitness to be licensed as a Paralegal Practitioner. Applicants must be
11 approved by the LPP Admissions Committee prior to sitting for the Paralegal Practitioner
12 Examinations. At any time before being licensed as a Paralegal Practitioner, the LPP Admissions
13 Committee may withdraw or modify its approval.

14 (b) Investigative process; investigative interview. Investigations into the character and
15 fitness of Applicants may be informal, but shall be thorough, with the object of ascertaining the
16 truth.

17 (b)(1) The LPP Admissions Committee may conduct an investigation and may act with or
18 without requiring a personal appearance by an Applicant.

19 (b)(2) At the discretion of the LPP Admissions Committee, an Applicant may be required
20 to attend an investigative interview conducted by one or more members of the Committee. The
21 investigative interview shall be informal but the Applicant shall have the right to counsel and
22 shall be notified in writing of the general factual areas of inquiry. Documentary evidence may be
23 provided as part of the investigation, but no witnesses will be permitted to appear during the
24 interview. The interview shall be a closed proceeding.

25 (b)(3) After an investigative interview has been conducted, the Applicant shall be notified
26 regarding whether or not she or he has been approved to sit for the Paralegal Practitioner
27 Examination(s). Applicants who are not approved will be notified regarding those areas that are
28 of concern to the Committee. An Applicant seeking review of the decision must request a formal
29 hearing within ten calendar days of notice of the Committee's decision. The request must be
30 made in writing and provided to the LPP Administrator. The hearing will be conducted in
31 accordance with Rule 15-708(c).

32 (b)(4) The Committee may determine that an Applicant must take corrective action
33 before approval of her or his application can be granted. The Applicant shall be notified in
34 writing of the action required. No later than 30 days prior to the date of the Paralegal
35 Practitioner's Examination(s), the Applicant must provide written documentation to the LPP
36 Administrator proving that the required corrective action has been completed.

37 (b)(4)(A) If the documentation is not provided as required within 30 days prior to the
38 Paralegal Practitioner's Examination(s), the Applicant must, instead, submit to the LPP
39 Administrator, a written request to transfer to a future exam date, including the payment of the
40 prescribed transfer fee. The request must specify when the corrective action will be completed
41 and which future examination(s) the Applicant intends to take.

42 (b)(4)(B) The exam must be taken within the next two scheduled Paralegal Practitioner
43 Examination(s). An Applicant is entitled to one transfer only.

44 (b)(4)(C) The application of an Applicant who neither takes corrective action nor requests
45 a transfer shall be considered withdrawn.

46 (c) Formal hearing. In matters where the LPP Admissions Committee decides to convene
47 or an Applicant so requests, the LPP Admissions Committee shall hold a formal hearing. The
48 formal hearing shall be a closed proceeding and may be scheduled whether or not preceded by an
49 investigative interview.

50 (c)(1) A formal hearing shall be attended by no fewer than three LPP Admissions
51 Committee members. Five calendar days before the hearing, the Applicant and the Committee
52 must provide a list of witnesses and a copy of any exhibits to be offered into evidence. If an
53 Applicant chooses to submit a written statement, it must also be filed five calendar days before
54 the hearing.

55 (c)(2) Written notice of the formal hearing shall be given at least ten calendar days before
56 the hearing. Notice shall be sent to the Applicant at the address in the application. The notice
57 shall include a statement of the preliminary factual matters of concern. The matters inquired into
58 at the hearing are not limited to those identified in the notice, but may include any concerns
59 relevant to making a determination regarding the Applicant's character and fitness.

60 (c)(3) The formal hearing will have a complete stenographic record made by a certified
61 court reporter or an electronic record made by means acceptable in the courts of Utah. All
62 testimony shall be taken under oath. Although no formal rules of evidence or civil procedure will

63 apply, an Applicant has the right to counsel, the right to cross-examine witnesses, the right to
64 examine the evidence and the right to present witnesses and documentary evidence. An
65 Applicant is entitled to make reasonable use of the Bar's subpoena powers to compel attendance
66 of witnesses and to adduce relevant evidence relating to matters adverse to the applicant.

67 (c)(4) Written findings of fact and conclusions of law shall be issued no later than 45
68 calendar days after the formal hearing and any subsequent inquiries have been concluded. In
69 computing the period of time, the last day of the period shall be included, unless it is a Saturday,
70 a Sunday, or a legal holiday, in which event the period extends until the end of the next day that
71 is not a Saturday, Sunday, or a legal holiday. "Legal holiday" includes days designated as
72 holidays by the state or federal governments.

73 (d) Factors related to character and fitness. In addition to the standards set forth in Rules
74 15-708(a), and 15-708(f) and Rule 15-717 if applicable, the LPP Admissions Committee may
75 use the following factors to decide whether an Applicant possesses the requisite character and
76 fitness to be licensed as a Paralegal Practitioner:

77 (d)(1) the Applicant's lack of candor;

78 (d)(2) unlawful conduct;

79 (d)(3) academic misconduct;

80 (d)(4) making of false or misleading statements, including omissions;

81 (d)(5) misconduct in employment;

82 (d)(6) acts involving dishonesty, fraud, deceit or misrepresentation;

83 (d)(7) abuse of legal process;

84 (d)(8) neglect of financial responsibilities;

85 (d)(9) neglect of professional obligations;

86 (d)(10) violation of a court order;

87 (d)(11) evidence of mental or emotional instability;

88 (d)(12) evidence of drug or alcohol dependency;

89 (d)(13) lack of diligence or reliability;

90 (d)(14) lack of civility;

91 (d)(15) denial of admission to the bar in another jurisdiction on character and fitness
92 grounds;

93 (d)(16) past or pending disciplinary action by a lawyer disciplinary agency or other
94 professional disciplinary agency of any jurisdiction; and

95 (d)(17) other conduct bearing upon character or fitness to be licensed as a Paralegal
96 Practitioner.

97 (e) Assigning weight and significance to prior conduct. In making a determination as to
98 the requisite character and fitness, the following factors should be considered in assigning weight
99 and significance to prior conduct:

100 (e)(1) age at the time of conduct;

101 (e)(2) recency of the conduct;

102 (e)(3) reliability of the information concerning the conduct;

103 (e)(4) seriousness of the conduct;

104 (e)(5) factors underlying the conduct;

105 (e)(6) cumulative effect of conduct or information;

106 (e)(7) evidence of rehabilitation;

107 (e)(8) positive social contributions since the conduct;

108 (e)(9) candor in the admissions process;

109 (e)(10) materiality of any omission or misrepresentations; and

110 (e)(11) acceptance of responsibility for past conduct.

111 (f) Civil, criminal, or disciplinary charges.

112 (f)(1) Where bar complaints, civil cases, or criminal charges are pending, an Applicant's
113 character and fitness review may be held in abeyance until the matter has been resolved by the
114 authority in question.

115 (f)(2) An Applicant convicted of a misdemeanor offense or who has entered a plea in
116 abeyance to any criminal offense may be asked to appear before members of the LPP
117 Admissions Committee for an investigation interview or a formal hearing. In determining
118 whether the Applicant is of good character, the Committee will consider the nature and
119 seriousness of the criminal conduct resulting in the conviction(s), mitigating and aggravating
120 factors including completion of terms and conditions of any sentence imposed, payment of
121 restitution if applicable, and demonstration of clearly proven rehabilitation.

122 (f)(3) A rebuttable presumption exists against licensing of an Applicant convicted of a
123 felony offense. For purposes of this rule, a conviction includes entry of a nolo contendere (no

124 contest) plea. An Applicant who has been convicted of a felony offense is not eligible to apply
125 for licensure until after the date of completion of any sentence, term of probation or term of
126 parole or supervised release, whichever occurred last. Upon an Applicant's eligibility, a formal
127 hearing may be held as set forth in Rule 15-708(c). Factors to be considered by the Committee
128 include, but are not limited to, the nature and seriousness of the criminal conduct resulting in the
129 conviction(s), mitigating and aggravating factors including completion of terms and conditions
130 of a sentence imposed and demonstration of clearly proven rehabilitation.

131 (g) Review. An Applicant may request a review of a formal hearing decision. The review
132 will be conducted in accordance with Rule 15-715.

133 (h) Reapplication. Reapplication after denial in a character and fitness determination may
134 not be made prior to one year from the date of the final decision (including the appellate
135 decision, if applicable), unless a different time period is specified in the final decision. If just
136 cause exists, the LPP Admissions Committee may require an Applicant to wait up to three years
137 from the date of the final decision to reapply. If a reapplication period longer than one year is set
138 for a delicensed Paralegal Practitioner, then the time period is subject to approval by the District
139 Court hearing the petition for reinstatement.