

# STUDENT LAWYER

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## LAW SCHOOLS 3.0

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# READY, SET, GO!

**G.M. FILISKO**

START PREPARING YOUR CHARACTER AND FITNESS APPLICATION NOW  
TO AVOID A LAST-MINUTE MAD DASH TO THE FINISH LINE.

**A**n item that's certainly on every law student's to-do list is filling out your character and fitness application. But thank goodness you don't have to worry about it until late in your law school career—maybe even after you graduate, depending on your state's rules, right?

Sorry, but that's not your smartest move.

Sure, it's possible you may be perfectly fine putting your application on the back burner until just before it's due. But too many students are surprised and panicked at the last minute when

they realize how much time and effort it takes to gather the information needed for a complete application.

"This isn't an application you can reduce your prep time for," said Sally Evans Lockwood, director of Georgia's Office of Bar Admissions in Atlanta. "It's an application that can't be done in an hour. It needs to have the time and attention it deserves. This is very important, and the time you may save by filling it out hurriedly will be more than consumed because there will be follow-up questions and you'll be delayed in the process."

The good news is that you can avoid unnecessary stress and delay. Here's a

nuts-and-bolts guide to preparing your application in a way that's methodical and, ultimately, successful.

### GET A HEAD START. SERIOUSLY.

State rules on when you must submit your character and fitness application vary. That, however, is irrelevant to when you should begin your application.

"Look right now at the application," advised Dennis Rendleman, counsel to the ABA Standing Committee on Ethics and Professional Responsibility in Chicago. "If you don't have a copy available for your state, go to the web page for the National Conference of Bar Examiners and look at the form there. Use it as a practice template for the types of information you're going to need to gather."

When should you start gathering information? "Now," recommended Braden Perry, a partner at Kennyhertz Perry in Kansas City, Missouri, who has advised students preparing character and fitness applications. "Even if it's a matter of compiling historical information, it's good to have it handy because there's a lot of paperwork, and there are a lot of deadlines. You don't want to be scrambling to find your telephone number from six years ago."

That advice is especially true for older students. "The biggest struggle is for those students who went to law school to pursue a second career," said Richard M. Maltz, counsel at Frankfurt, Kurnit, Klein & Selz in New York City who represent clients in the bar admissions process. "You have to include every residence, every job, and it seems like every time you blew your nose, and that information is really difficult to compile. It's much easier for somebody who went from undergrad straight to law school. So once you're in law school, start accumulating that documentation as soon as you can. For every year that passes, it's going to be that much harder."

Also start immediately if you're worried about clearing the character and fitness bar. You want to ensure you leave enough time to seek legal advice if you're not sure what or how to disclose something. "I get a lot of these questions: 'Do I need to disclose this

and, if so, how do I disclose it?'" said Maltz. "You need full transparency, but the key is how to give information context. Hiring a lawyer isn't particularly expensive—maybe \$500 to \$1,000—and it may save you a ton of problems and headaches and a lot more money if your application is challenged and you have a hearing."

If your state permits, it may also make sense to apply well before the deadline. "If you know you're going to have problems, get your application in early," suggested Michael Downey, a litigation partner at Armstrong Teasdale in St. Louis, who has advised clients on character and fitness hearings in Missouri and Illinois.

"In Missouri, you can apply as a first-year law student, and you can often avoid problems by applying early," said Downey. "If you apply, say, only 120 days before the bar exam,

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somebody may not even look at your file for 45 days, and then you'll be rushing to have a hearing. But even if you're doing it as a third-year student, don't wait for a deadline. You can apply and note on your application, 'I'm still waiting for this documentation.' Obviously, you can't be waiting for all your information. But you can have a

few loose ends you're still waiting to tie up."

### NOT WORRIED? STILL START SOON.

Not particularly worried about passing the character and fitness review? Finishing your application will still likely take longer than you think. "People underestimate the amount of time it's going to take to fill out," said Margaret Fuller Corneille, director of the Minnesota State Board of Law Examiners in St. Paul, and the 2013–14 chair of the National Conference of Bar Examiners. "I think it takes about 30 days. So you should start a month in advance of when you're going to file it. But the even better thing to do is to read the application in your last year of law school, maybe right after the first of the year, and figure out how you're going to schedule the time and get the records you need."

The key, said Perry, is to stay organized and focus on being consistent. "Consistency is often overlooked," he said. "One of the things the Kansas Board of Law Examiners and other bar examiners do is look at your law school application, as well as any other applications they're able to come across, and determine if there are inconsistencies. If there are, that's a red flag."

Corneille agrees consistency among applications is important. "Maybe you didn't handle your law school application process too carefully, and then you've forgotten the scope of the questions on that application," she explained. "If there are discrepancies, there can be a problem. All law schools are different, but some law schools take very seriously matters that should have been disclosed on the law school application."

Perry recommended creating a spreadsheet that lists your experience, residences, references, and other personal information that's asked on all applications you've filled out. Also, always keep a copy of applications you submit to any organization so you can maintain consistency among them. "When I did my security check for federal employment, they were looking at all my previous applications," explained Perry, a former lawyer for

# MASTER THE *THORNIEST ISSUES*

**T**he most difficult issues to address on the character and fitness application are those that trigger concerns over potential substance abuse or the risk of financial improprieties involving client funds.

If you anticipate a problem, start by researching how your state has handled such issues. “I’d suspect that, for example, a state that has approved the use of marijuana for recreational purposes or has a municipality that gives a traffic-ticket-style violation is going to be less concerned that you got a marijuana violation than a state that doesn’t permit that,” said Dennis Rendleman, counsel to the ABA Standing Committee on Ethics and Professional Responsibility in Chicago. “There are also a couple of states that have denied applications from students who’ve had financial or student-loan issues. If you’re in one of those states, clearly you want to have a plan for paying off your loans.” That’s a question of doing your research on the states.

Also be able to show that you’re aware of potential red flags and have taken steps to minimize risks to clients. “The biggest error people can make is to ignore the fact that they have, for example, a couple of driving-while-intoxicated convictions and have a drinking or chemical abuse issue,” said Margaret Fuller Corneille, director of the Minnesota State Board of Law Examiners in St. Paul and the 2013–14 chair of the National Conference of Bar Examiners. “They continue through law school without addressing that. Wise law students realize they’ll have to explain how they got those convictions and what, if anything, it indicates about whether they’re chemically dependent and whether they’ve addressed that with treatment. If you show up at the door with a record of having abused alcohol or drugs and not having addressed it, those are red flags, and we follow up.”

The same rule holds for financial risks. Be ready to show you’re addressing them. “Some students make the mistake of thinking that as soon as they get out of law school, they’re going to get a job and be able to pay off their debt,” said Corneille. “We’re looking at applicants’ ability to handle their debt situation responsibly. Are they in touch with their creditors? Are they trying to create a plan to pay it off? If you can, provide a copy of a repayment agreement you’ve entered into along with copies of canceled checks showing you’re paying off this debt on regular basis. There’s no requirement to have a perfect credit score or a blemish-free credit record. The question is what have you done recently to resolve the issue?”

the US Commodity Futures Trading Commission. "I'd kept a copy of each. I created a spreadsheet and used that that going forward, amending it as needed."

What type of information should you track? Perry suggested including:

- All the names you've ever used
- All your residences for the last 10 years
- Your education, along with any disciplinary activity that occurred
- Your employment and unemployment in last 10 years
- Your criminal history, including alcohol-related charges and moving violations
- Bankruptcy and credit information, including outstanding debts or defaults

#### IT'S TIME TO COLLECT RECORDS.

Ask any character and fitness expert the key to a successful application, and the answer will assuredly be full disclosure. "The more thorough you can be on your application, the less likely we'll ask for supplemental information," said Corneille. "And nobody wants to hear from the board on character and fitness issues."

Often that means you'll need to contact far-away jurisdictions for records you never thought you'd need, like employment, housing, and criminal records. Bureaucracies can be slow and maddening, so get that process underway early.

"Cast a very broad net, and make sure you capture everything," recommended Downey. "A lot of times, if you've got good contact at your university, they can help, or some of your friends may have the stuff you need."

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FLAG.

Bar examiners have been taking a keen interest in applicants' handling of their personal finances to ensure they're not likely to raid clients funds. "Pull your own credit report," advised Corneille.

"Some jurisdictions automatically pull a credit report because you get a lot of information on those. But they can have erroneous information, too. You want to be able to correct and object to anything you think is incorrect and do that well in advance of submitting your application."

If you're ultimately unsuccessful at relocating any necessary documents, disclose that fact, along with the efforts you've made to secure them. "If you don't capture everything, tell the bar examiners," said Downey. "Say something like, 'I've had criminal convictions, and I pulled my criminal history. It looks complete, but there may also have been an arrest in Washington, D.C. I remember a police officer talking to me about having an open container of alcohol, putting me in a squad car, and then releasing me. However, I've can't find any record of that incident.' It will likely not concern the bar examiners."

Another set of documents you'll need to begin compiling are references. You'll need references from people in different areas, and identifying and contacting them can be time-consuming. "Get your character references on board early," said Perry. "Discuss why you're asking them to be references and determine if they'll be a quality reference. I actually went in person and requested a recommendation. Don't just email and say, 'Can you provide a reference? I can get you a form letter that you can just sign.' It shouldn't be a form letter. You need to make the references personal."

Finally, be wary of any advice, even

from your law school, to purge any records in an effort to keep them from bar examiners. "If there's anything applicable to a character and fitness application, I'd say absolutely not if

asked whether it should be purged," said Perry. "The answer would be the opposite. I'd encourage candor and full disclosure for everything that's required. On the other hand, when it comes to things on the Internet that may affect your reputation—things that aren't required by the character and fitness applica-

tion but available in a search—make sure you look the best you can."

Amidst all the other learning you're accomplishing at law school, make sure you learn this lesson: With smart planning, your character and fitness application won't be another source of law school anxiety. "The best way to reduce stress is to set aside the time to do it," said Lockwood. "Do it right, and do it right the first time." ■

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