

STATE OF VERMONT
VERMONT SUPREME COURT
_____ TERM, 2021

Order Abrogating and Replacing Rule 16 of the Vermont Rules of Admission to the Bar of the Vermont Supreme Court

Pursuant to Chapter II, § 37, of the Vermont Constitution, it is hereby ordered:

1. That Rule 16 of the Vermont Rules of Admission to the Bar is abrogated and replaced to read as follows:

Rule 16. Requirements and Investigation

(a) **Character and Fitness Requirement.** All Applicants must establish their good moral character and fitness to the satisfaction of the Committee to be admitted to the Bar.

(b) **Definition.** “Good moral character and fitness” means that the person’s prior conduct reasonably demonstrates that the person presently meets the essential eligibility requirements for the practice of law and otherwise does not likely pose a risk to clients, the legal system, or the administration of justice. Health conditions are relevant only so far as they reasonably demonstrate a present lack of character or fitness.

(c) **Essential Eligibility Requirements.** To be eligible to be admitted to the Vermont bar, Applicants must reasonably demonstrate that they will:

(1) Be able to reason, analyze, and recall complex factual information and integrate such information with complex legal theories;

(2) Conduct themselves with a high degree of honesty, integrity, and trustworthiness in all professional relationships and with respect to all legal and financial obligations;

(3) Conduct themselves with respect for and in accordance with the law, including the Vermont Rules of Professional Conduct;

(4) Conduct themselves professionally and in a manner that engenders respect for the law and the profession.

(5) Exercise good judgment on behalf of clients and in conducting one’s professional business;

(6) Communicate with clients, attorneys, courts, and others with a high degree of organization and clarity;

(7) Avoid acts that exhibit disregard for the rights or welfare of others;

(8) Conduct themselves diligently and reliably in fulfilling all obligations to clients, attorneys, courts, and others; and

(9) Comply with deadlines and time constraints.

(d) **Duties of Applicant.**

(1) *Burden of Proof.* The Applicant bears the burden of proof of establishing good moral character and fitness.

(2) *Consent and Waiver.* Applicants must consent to an investigation of their moral character

and fitness and must provide all necessary waivers of confidentiality and liability to facilitate the investigation.

(3) *References.* The Applicant must provide as references the names and addresses of three persons not related to the Applicant by blood, marriage, or civil union. In addition, an Applicant who, at the time of application for admission, has practiced law in another U.S. jurisdiction for at least one year must provide as further references the names and addresses of two attorneys admitted to practice in that jurisdiction.

(e) Investigation and Report.

(1) *Duty of Committee.* The Committee must investigate each applicant to determine whether the applicant presently possesses good moral character and fitness.

(2) *Appointment of Member.* The Committee assigns a single Member to conduct the investigation of an Applicant's moral character and fitness.

(3) *Decision and Report.* After concluding the investigation, the Member must decide whether to certify the Applicant's good moral character and fitness. The Member must report the decision in writing.

(A) If the Member certifies the Applicant's good moral character and fitness, the Committee need not conduct further review and the Committee will recommend to the Court the Applicant's admission, provided the Applicant has satisfied all other admission requirements.

(B) If the Member does not certify the Applicant's good moral character and fitness, the Member must state the reasons therefore in a report to the Committee and the Committee will convene a hearing on the Applicant's application for admission.

Board's Notes—2021 Amendment

New Rule 16 adopts essential eligibility requirements that affirmatively state the abilities needed to become a licensed lawyer. These requirements provide a clear framework to guide applicants and the Character and Fitness Committee in the determination of whether an applicant has the requisite moral character and fitness to practice law in the state. Further, the American Bar Association has recommended that states adopt essential eligibility requirements to promote lawyer well-being by providing clear eligibility guidelines for lawyers with mental or physical impairments.

The definition of character and fitness in new Rule 16(b) includes a provision making it clear that health conditions, including substance-use disorders or mental-health impairments, are relevant only so far as they impact the applicant's present ability to meet the essential eligibility requirements.

Other than the new provisions noted above, the substance of the rule remains unchanged, although somewhat reorganized to incorporate the new provisions.

2. That this rule as amended is prescribed and promulgated effective _____. The Reporter’s Notes are advisory.

3. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont this _____ day of _____, 2021.

Paul L. Reiber, Chief Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

