

shall submit proof that he or she has filed an application for reinstatement in the disciplining jurisdiction and obtained a final determination on that application.

(iv) The only defenses available to the individual in question are set out below, and must be proven by the individual by clear and convincing evidence:

(A) The procedure in the disciplinary court was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(B) There was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Office could not, consistently with its duty, accept as final the conclusion on that subject; or

(C) The finding of lack of present good moral character by the Office would result in grave injustice.

(v) The individual, upon applying for registration, shall prove by clear and convincing evidence that he or she is of present good moral character.

(i) *Factors that may be taken into consideration when evaluating rehabilitation of an applicant seeking a moral character determination.* When considering whether an applicant has the good moral character required for registration, the OED Director evaluates whether an applicant possesses the qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the laws of the States and the nation, and respect for the rights of others and for the judicial process. Involvement in activity that constitutes an act of misconduct or an act of moral turpitude does not necessarily preclude an applicant from registration; however, an applicant who has committed such acts must demonstrate rehabilitation prior to registration. An act of misconduct may include, but is not limited to, behavior that results in a criminal conviction, a sustained accusation of fraud, or a sustained allegation of unauthorized practice of law, violation of a school's honor code that involves moral turpitude or results in expulsion, professional discipline, license revocation or disbarment, as well as material omissions from a moral character application, or misstatements in the registration application and misrepresentations during the application process.

(1) Individuals convicted of violent felonies, felonies involving moral turpitude and crimes involving a breach of fiduciary duty are presumed not to be of good moral character in the absence of a pardon or a showing of complete reform and rehabilitation. The OED Director shall exercise discretion to

determine whether applicants convicted of violent felonies, felonies involving moral turpitude, and crimes involving a breach of fiduciary duty have produced overwhelming proof of reform and rehabilitation, including at a minimum, a lengthy period of not only unblemished, but exemplary conduct.

(2) The factors enumerated below are guidelines that may be taken into consideration when evaluating whether an applicant has demonstrated rehabilitation. Not all factors listed below will be applicable to every single case nor will each factor necessarily be given equal weight in evaluating the rehabilitation of an applicant. The factors, taken as a whole although not exclusive, assist the OED Director in determining whether an applicant has demonstrated rehabilitation from an act of misconduct or moral turpitude. The factors include:

(i) The nature of the act of misconduct, including whether it involved moral turpitude, whether there were aggravating or mitigating circumstances, and whether the activity was an isolated event or part of a pattern;

(ii) The age and education of the applicant at the time of the act of misconduct and the age and education of the applicant at the present time;

(iii) The length of time that has passed between the act of misconduct and the present, absent any involvement in any further acts of moral turpitude, the amount of time and the extent of rehabilitation being dependent upon the nature and seriousness of the act of misconduct under consideration;

(iv) Restitution by the applicant to any person who has suffered monetary losses through acts or omissions of the applicant;

(v) Expungement of a conviction;

(vi) Successful completion or early discharge from probation or parole;

(vii) Abstinence from the use of controlled substances or alcohol for not less than two years if the specific act of misconduct was attributable in part to the use of a controlled substance or alcohol, where abstinence may be demonstrated by, but is not necessarily limited to, enrolling in and complying with a self-help or professional treatment program;

(viii) Evidence of remission for not less than two years if the specific act of misconduct was attributable in part to a medically recognized mental disease, disorder or illness, where evidence of remission may include, but is not limited to, seeking professional assistance and complying with the treatment program prescribed by the professional and submission of letters

from the psychiatrist/psychologist verifying that the medically recognized mental disease, disorder or illness is in remission;

(ix) Payment of the fine imposed in connection with any criminal conviction;

(x) Correction of behavior responsible in some degree for the act of misconduct;

(xi) Completion of, or sustained enrollment in, formal education or vocational training courses for economic self-improvement and thereby eliminating economics as a cause for unethical conduct;

(xii) Significant and conscientious involvement in community, church or privately sponsored programs designed to provide social benefits or to ameliorate social problems; and

(xiii) Change in attitude from that which existed at the time of the act of misconduct in question as evidenced by any or all of the following:

(A) Statements of the applicant;

(B) Statements from family members, friends or other persons familiar with the applicant's previous conduct and with subsequent attitudes and behavioral patterns;

(C) Statements from probation or parole officers or law enforcement officials as to the applicant's social adjustments; and

(D) Statements from persons competent to testify with regard to neuropsychiatry or emotional disturbances.

(j) *Hearing.* If, following investigation of moral character, the OED Director believes any evidence suggests lack of good moral character and reputation, the OED Director shall give the individual notice to show cause fairly apprising the individual of the OED Director's reasons for failing to be convinced of the individual's good character and reputation, and an opportunity to be heard before a final decision is issued. The notice shall also give the individual the choice of withdrawing the application. The individual shall be given no less than 10 days to reply. The notice shall be given by certified mail at the address appearing on the application if the address is in the United States, and by any other reasonable means if the address is outside the United States.

(1) *Evidence supplied or confirmed by individual.* When the evidence suggesting lack of good moral character and reputation is information supplied or confirmed by the individual, or the evidence is of an undisputed documentary character disclosed to the individual, the OED Director, with the concurrence of a majority of the