

Board of Law Examiners

Appointed by the Supreme Court of Texas

Information About the Hearings Process

I. THE LAW

The Board of Law Examiners is charged with determining whether applicants for admission to the practice of law in Texas meet the requirements set forth in the Rules Governing Admission to the Bar of Texas, adopted by the Supreme Court of Texas, including all amendments. Rule 4(a) provides: “No one shall be eligible for admission to the Texas Bar or for certification as a Foreign Legal Consultant until the investigation of such person’s moral character and fitness has been completed, and it has been determined by the Board that such individual possesses good moral character and fitness.”

Under the Rules, if the Board’s staff investigation indicates that you may lack the present good moral character or fitness required for admission to the practice of law in Texas, you will be notified in writing of a preliminary determination to that effect. (See Rules 8 and 10.) To contest the staff’s preliminary determination, you must request a hearing within 30 days of receipt of the preliminary determination notice. (See Rule 15(a)(1).) You will then be notified of the date for a hearing on your case, which will be held before a three-member panel of the Board. (See Rule 15(d).) If you wish, you or your attorney may communicate your preference for a hearing date to the assigned Staff Attorney, although the Board reserves the right to control its own docket. After hearing, the Board will issue a written order. (See Rules 15(h) and (i).) The written order may be appealed to the district court of Travis County within 60 days after the date the written decision is mailed to you. (See Rule 15(k).)

II. STAFF ATTORNEY

The Staff Attorney in charge of your case is named in your notice letter. Lynn Bradshaw may be reached at (512) 936-2292 or Lynn.Bradshaw@ble.texas.gov and Allan Cook may be reached at (512) 463-9422 or Allan.Cook@ble.texas.gov.

III. RIGHT TO COUNSEL

You have the right to retain counsel for your hearing before the Board of Law Examiners. If you do so, please have your attorney contact the Staff Attorney assigned to your case as soon as possible. If you have retained counsel, all further communications between you and the Staff Attorney must be through your attorney. If you choose to represent yourself, you may continue to communicate directly with the Staff Attorney.

IV. SETTING

A. TIME

Usually, hearings are set for an 8:45 a.m. docket call, unless otherwise specified in the notice letter.

B. DURATION

Each hearing usually lasts about an hour, which allows each side 30 minutes to present its case. If you think your case will take longer to present you or your attorney should advise the Staff Attorney.

C. PANEL MEMBERS

The hearing will be conducted before a three-member panel of the Board of Law Examiners, each of whom is an attorney. One member of the panel will preside and conduct the hearing similar to the way a judge conducts a non-jury matter in court.

D. CONTINUANCE

Because hearings are set well in advance and because they require the attendance of Board members traveling to Austin from across the state, requests for continuance are discouraged. In

cases where a continuance is unavoidable, the procedures for obtaining a continuance are as follows:

1. Any request for a continuance must be verified and in writing, signed by the movant or his/her attorney, if any.
2. Continuance requests must describe with particularity the reasons for the continuance and whether previous hearings have been continued at the movant's request.
3. Continuance requests must be submitted to the Board as soon as practicable but, except in extraordinary circumstances, not later than 8:30 a.m. 15 days before the day on which the hearing is scheduled.
4. Properly completed continuation requests may be filed by email addressed to the assigned Staff Attorney.
5. Upon receipt of a motion for continuance, the Staff Attorney will transmit the motion to the Board member assigned to preside over the hearing panel, who shall decide the motion. The decision will be communicated as soon as practicable to the movant and the opposing party. The decision of the presiding chair will be final.

V. PRE-HEARING PROCEDURE

A. PROPOSED EVIDENCE MUST BE SHARED WITH OPPOSING COUNSEL IN ADVANCE

The Staff Attorney assigned to your case will email to you a copy of the documentary evidence they intend to introduce, at least eight days before the hearing to give you or your attorney an opportunity to review it and make any objections. Likewise, you or your attorney are expected to submit the documentary evidence you propose to introduce, at least eight days before the hearing.

B. OBJECTIONS TO EVIDENCE MUST BE MADE IN ADVANCE

If you or your attorney have any objections to the Staff Attorney's proposed evidence, you must make those objections in writing at least four days before the hearing. Any objections not timely made are considered waived. Any objections not timely made by the Staff Attorneys are also considered waived.

VI. HEARING PROCEDURE

A. PLACE

Your case will be heard in one of several hearings rooms in the Tom C. Clark Building, 205 West 14th St., Austin TX 78701. For directions to your hearing room, please report to the Board Office on the fifth floor by 8:35 a.m. on the day of your hearing, unless otherwise directed in the notice letter. The Board's main number is (512) 463-1621.

B. FORMAT

The hearing is similar to a bench trial in court, although the Presiding Chair has discretion to determine the exact manner in which the hearing is conducted. Participants are not required to stand to address the panel. The panel members may be addressed by name (e.g., Mr. or Ms.). Hearings generally proceed as follows:

1. The Presiding Chair will call the case and ask for announcements of "Ready" from both the Staff Attorney and from you or your attorney.
2. There may be a brief (one to three minute) opening statement from each side stating what they reasonably expect the evidence to show when they present their case-in-chief.
3. The Staff Attorney has the initial burden of proof and will present their case first. They may

call witnesses and present documentary evidence. You will be questioned as a witness by the Staff Attorney. At the close of the Staff Attorneys' case-in-chief, they will "rest."

4. You or your attorney may then present your case-in-chief, which may consist of calling rebuttal witnesses, presenting documentary evidence, etc. At the close of your case-in-chief, you or your attorney will "rest."
5. If the Staff Attorney presents rebuttal evidence, you or your attorney may also present rebuttal evidence, and then "close."
6. Each side may make a brief closing argument, beginning with the Staff Attorney.
7. Each Panel member may ask questions that will be directed to you, your attorney, or the Staff Attorney.
8. The Presiding Chair will then announce that the hearing is concluded.

C. RULES OF PROCEDURE AND EVIDENCE

Character and fitness hearings, while similar to bench trials, are not typical adjudicative proceedings governed by the Texas Rules of Evidence or the Texas Rules of Civil Procedure. While those rules provide a rough framework for Panel hearings, evidence otherwise inadmissible in a typical trial may be admitted and considered by the Panel—at the discretion of the Presiding Chair—if it is of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs (See Rule 15(f)(2)).

D. DELIBERATION AND DECISION

The Panel Members will deliberate and vote—at the conclusion of the morning hearing session and again at the end of the afternoon session, if any—and announce their decision in open session by docket number. The Staff Attorney will phone you or your attorney to briefly summarize the Board's decision. A written order will issue memorializing the announced decision. Evidence will not be accepted or admitted after the Board panel deliberates and votes. There is no provision in the Rules authorizing motions for reconsideration.

E. THE ORDER

A written order is drafted by the Staff Attorney assigned to your case and is submitted to the Panel Members after the hearing for their consideration. The draft is circulated among the Panel Members to ensure unanimous agreement. As such, it may take four to six weeks for a signed order to be transmitted to you or to your attorney.

F. APPEALING THE ORDER

You may appeal the Board's order by filing a petition for review in the Travis County district court within 60 days after the order is *mailed* to you or to your attorney. The standard for judicial review of a Board order is whether the Board's decision is reasonably supported by substantial evidence. The district court's review is limited to the certified record created at the Board hearing; no new evidence may be submitted and none will be considered by the district court. The district court may either affirm the Board's action or remand the matter to the Board for further proceedings. (See Rule 15(k)).