

IN THE SUPREME COURT OF THE STATE OF KANSAS

RULES RELATING TO THE ADMISSION OF ATTORNEYS

RULE 721

INVESTIGATION AND HEARING PROCEDURES

**FILED**

**AUG 31 2016**

**DOUGLAS T. SHIMA  
CLERK OF APPELLATE COURTS**

Rule 721 is hereby amended, effective the date of the order.

(a) The Admissions Attorney shall review all applications; investigate matters that bear on the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law; direct applicants to submit to evaluations under Rule 718, if deemed necessary; and interview applicants, if deemed necessary.

(b) The office of the Disciplinary Administrator or the Review Committee may also call on any state or local bar association, or one or more members of the bar of the judicial district where the applicant resides, to make such investigation and report the results to the office of the Disciplinary Administrator or the Review Committee.

(c) Applicants are required to submit fingerprints for investigative purposes.

(d) In no event will permission be granted to sit for the bar examination pursuant to Rule 709 or a license to practice law be issued pursuant to Rules 708, 709A, ~~or~~ 712, or 712A until the investigation as to good moral character and current mental and emotional fitness to engage in the active and continuous practice of law has been satisfactorily completed.

(e) Following the investigation, the office of the Disciplinary Administrator shall approve and certify to the Board the names of those applicants who appear to be qualified for admission.

(f) The applicants not certified by the office of the Disciplinary Administrator shall be referred to the Review Committee. The Review Committee, or one of its members, may conduct additional investigation, including applicant interviews, if deemed necessary. If the Review Committee finds probable cause that an applicant

has failed to meet the applicant's burden to establish by clear and convincing evidence the requisite character and fitness qualifications under Rule 707, the Review Committee may initiate remedial action on agreement with the applicant but shall refer the applicant to the Board for a formal hearing under Rule 721 if an agreement with the applicant cannot be reached.

(g) The Chairman of the Board shall inform the Clerk of the Appellate Courts that a hearing is to be scheduled. Thereafter, the Clerk of the Appellate Courts shall inform the applicant of the date, time, and location of the hearing.

(h) The applicant is entitled to retain counsel at any time. The applicant is also entitled to cross-examine witnesses and to present evidence at the hearing.

(i) If an applicant who applied pursuant to Rule 709 is not allowed to take the bar examination for which the application was made due to an ongoing investigation into or because of a hearing regarding the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the application shall be considered for the bar examination following the completion of the investigation and/or the hearing.

(j) During the investigation of the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the office of the Disciplinary Administrator and the Review Committee may obtain information, take and hear testimony, administer oaths and affirmations, and, by subpoena issued at the request of either the office of the Disciplinary Administrator or the Review Committee, compel the attendance of witnesses and the production of books, papers, and documents.

(k) During the hearing on the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, the office of the Disciplinary Administrator and the Review Committee may obtain information, take and hear testimony, administer oaths and affirmations, and, by subpoena issued at the request of either the applicant or the office of the Disciplinary Administrator or the Review Committee, compel the attendance of witnesses and the production of books, papers, and documents.

(l) The office of the Disciplinary Administrator shall file and serve a notice of hearing on the applicant not less than forty-five days prior to a formal hearing. The notice of hearing shall include factual allegations that generally inform the applicant of issues that appear to bear on the applicant's character and fitness. The notice must adequately inform the applicant of the nature of the evidence against the applicant, although the office of the Disciplinary Administrator need not list every item and

source of information to be presented at the hearing. A copy of the notice of hearing shall be served on the applicant. The original and fifteen copies of the notice of hearing shall be served on the Clerk of the Appellate Courts who shall forward the notice of hearing to each member of the Board.

(m) Within twenty days of service of the notice of hearing, the applicant shall file a response to the notice of hearing, admitting or denying each of the factual allegations contained in the notice of hearing. A copy of the response to the notice of hearing shall be served on the office of the Disciplinary Administrator. The original and fifteen copies of the response to the notice of hearing shall be served on the Clerk of the Appellate Courts who shall forward the response to the notice of hearing to each member of the Board.

(n) At the hearing, the applicant bears the burden of establishing, by clear and convincing evidence, that the applicant possesses the requisite good moral character and current mental and emotional fitness to engage in the active and continuous practice of law.

(o) An applicant may not be required to testify or produce records over objection if to do so would be in violation of the applicant's constitutional privilege against self-incrimination.

(p) A certified journal entry of conviction of an applicant for any crime shall be conclusive evidence of the commission of that crime. A diversion agreement or other similar document, for the purposes of any admissions proceeding, shall be deemed a conviction of the crimes originally charged.

(q) A certified copy of a civil judgment based on clear and convincing evidence shall be conclusive evidence of the commission of that civil wrong.

(r) All other civil judgments shall be prima facie evidence of the findings made therein and shall raise a presumption as to their validity. The burden shall be on the applicant to disprove the findings made in the civil judgment.

(s) A final adjudication in another jurisdiction that an applicant has been guilty of misconduct in an attorney disciplinary proceeding shall establish conclusively the misconduct for purposes of an admissions proceeding in this state.

(t) Anytime after an applicant is approved to sit for the written examination pursuant to Rule 709 or for licensure pursuant to Rules 708, 709A, ~~or 712~~, or 712A, but before the applicant receives a license to practice law in the State of Kansas, an investigation may be re-opened if additional information is received that bears on the applicant's good moral character or current mental and emotional fitness to engage in the active and continuous practice of law. In that event, the Board may hold a hearing pursuant to this rule.

(u) If the Board has cause to believe that an applicant who applied pursuant to Rule 709 engaged in misconduct during the administration of the bar examination, the Board may re-open the investigation into the applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law. In that event, the applicant's bar examination scores will not be released until the matter has been resolved. The Board may hold a hearing pursuant to this rule.

(v) All hearings held before the Board shall be transcribed by a certified court reporter.

(w) All investigations and hearings into an applicant's good moral character and current mental and emotional fitness to engage in the active and continuous practice of law, and the records thereof, shall be confidential and such records shall be subject to release only as provided in Rule 702. However, if the applicant requests the Board may hold any hearing, or any portion thereof, as an open hearing.

(x) Following the hearing, the Board shall issue a written decision detailing its findings of fact, conclusions of law, and recommendation whether the applicant should be allowed to sit for the written examination or be approved for licensure pursuant to Rules 708, 709A, ~~or 712~~, 712A. If the Board approves the applicant, the matter is concluded. If the Board does not recommend approval of the applicant, the matter shall be referred to the Supreme Court for review and decision.

BY ORDER OF THE COURT this 31st day of August, 2016.

FOR THE COURT

A handwritten signature in black ink, appearing to read 'Lawton R. Nuss', written over a horizontal line.

Lawton R. Nuss  
Chief Justice