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**State of North Dakota**

**STATE BOARD OF LAW EXAMINERS**

JUDICIAL WING, 1ST FL  
600 E BOULEVARD AVE DEPT 180  
BISMARCK ND 58505-0530  
VOICE (701) 328-4201  
TDD (701) 328-2884  
FACSIMILE (701) 328-4480

PENNY MILLER  
SECRETARY/TREASURER  
E-MAIL: PMiller@ndcourts.com  
CARLA KOLLING  
ASSISTANT BAR ADMISSIONS  
ADMINISTRATOR  
E-MAIL: CJKolling@ndcourts.com

**MEMBERS**  
REBECCA S. THIEM  
BISMARCK  
MARK L. STENEHJEM  
WILLISTON  
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FARGO

June 7, 2004

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Chief Justice  
Supreme Court

JUN 7 2004

STATE OF  
NORTH DAKOTA

The Honorable Gerald W. VandeWalle  
Chief Justice  
Supreme Court of North Dakota  
State Capitol Building  
Bismarck, ND 58505

FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT  
JUN 16 2004  
STATE OF NORTH DAKOTA

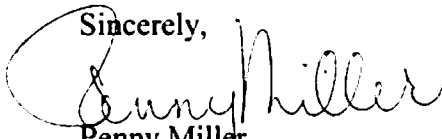
RE: Proposed Amendments to Rules 9 and 12, Admission to Practice Rules

Dear Chief Justice VandeWalle:

On behalf of the State Board of Law Examiners, I request the Court to approve the attached proposed amendments to Rules 9 and 12 of the Admission to Practice Rules. Also attached is a summary of the reasons for the requested amendments.

The Board does not believe these are the type of amendments that need to be reviewed by the Joint Committee on Attorney Standards, as they basically conform the rules to the process and application used by the Board.

Sincerely,



Penny Miller  
Secretary-Treasurer  
State Board of Law Examiners

PM  
Attachments

pc & attachments: The Honorable William A. Neumann  
The Honorable Dale V. Sandstrom  
The Honorable Mary Muehlen Maring  
The Honorable Carol Ronning Kapsner  
Members, State Board of Law Examiners

## ADMISSION TO PRACTICE RULES

### 1     **Rule 9. Review Procedures**

#### 2     A.    Informal Interview

3           At any stage of the application proceedings, the Board may request the applicant to appear  
4           before it or a designated Board member to answer any questions.

#### 5     B.    Formal Hearing

6           1. If the Board makes a recommendation for conditional admission or licensure, a  
7           negative recommendation for admission to the bar or a negative decision on licensure  
8           for any reason, it shall so notify the applicant by certified mail directed to the applicant  
9           at the mailing address appearing on the applicant's application. The notice must specify  
10          the grounds for the recommendation or decision by the Board.

11          If a negative recommendation or decision is based on the grounds that the applicant has  
12          failed to pass a portion of the examination or the attorney's examination, upon written  
13          request, and payment of a reasonable copying fee, as applicable:

14          a.    the applicant must be furnished with a copy of any essay portion of the  
15          applicant's examination and a copy of a set of model essay examination  
16          analyses prepared by or under the supervision of the Board; or

17          b.    if any part or all of the exam is prepared by or under the supervision of the National  
18          Conference of Bar Examiners, the applicant shall be given the opportunity to  
19          inspect that part of the examination and the appropriate ~~grading key~~, point sheet or  
20          model analyses, prepared by or under the supervision of the National Conference of  
21          Bar Examiners, for that part of the applicant's examination. Inspection and copying  
22          of the examination prepared and scored by or under the supervision of the National  
23          Conference of Bar Examiners will be as permitted by the guidelines and limitations  
24          prescribed by the National Conference of Bar Examiners or its designee.

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**Rule 12. Public Records**

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A. All records maintained by the Board regarding applications for admission to practice law, all examination materials, and all proceedings by the Board shall be confidential except as provided by these rules. The following records shall be maintained as public records:

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1. the name; and current address; ~~marital status; and date and place of birth~~ of each applicant;

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2. ~~name of high schools attended by applicant and date of graduation;~~

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~~3.~~ pre-legal colleges attended by each applicant;

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~~4.~~3. law schools attended by each applicant;

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~~5.~~4. whether applicant has ever been admitted to practice under rule for Limited Practice of Law by Law Students (Senior Practice Rule);

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~~6.~~5. names and addresses of persons who have passed the examination and have met all the requirements for admission to practice; ~~and~~

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~~7.~~6. whether an applicant has been admitted with conditions; and

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~~8.~~7. statistical summaries as may be authorized by the Supreme Court.

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B. Upon written request information may be exchanged with an authorized lawyer discipline agency and released to bar admission authorities in jurisdictions where an application for admission is pending.

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C. Application information may be released to ~~agencies~~ agents authorized by the Board to investigate moral character.

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D. If the Board makes a negative recommendation for admission to practice based upon lack of good moral character, the applicant is entitled to disclosure of records pertaining to the applicant's moral character.

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51 E. Upon an applicant's request for Supreme Court review of a negative recommendation for  
52 admission or licensure, the records pertaining to an applicant shall be public records.

## Summary

Rule 9(B)(1)(b) - Delete “**grading key**,”. The multistate bar examination, contains the multiple choice questions, is the only session of the examination which uses a grading key. However, the National Conference of Bar Examiners does not permit examinees to review the grading key, for test security reasons.

Rule 12(A)(1) - Delete “, **marital status, and date and place of birth**”. The application no longer requests specific marital information and, therefore, this is data that has not been maintained in our database. Additionally, due to identity theft concerns, the Board believes the date and place of birth should be maintained as confidential. This information is also not maintained in our electronic database.

Add “**and current**”. Most applicants start out with one address, their school one, and end up with another one the summer they are writing the bar exam. This amendment will simply clarify which address, if requested, should be provided.

Rule 12(A)(2) - Delete “**name of high schools attended by applicant and date of graduation**”. This information is no longer requested in the application and has not been maintained in our database.

Rule 12(C) - Change “**agencies**” to “**agents**”. The purpose of the rule was to basically authorize the Board to use the National Conference of Bar Examiners, or a similar entity, to assist in the character investigation. The Board has on occasion hired individuals to assist us. Using the word agent clarifies that it can be an individual or an entity the Board can hire.

The remainder of the proposed amendments are simply clean-up amendments.