

Your Hearing Before the Texas Board of Law Examiners: The Top 10 Reasons You Should Have an Attorney

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You just received a letter from the Texas Board of Law Examiners' Director of Fitness and Character informing you that you do not meet the standards of character or fitness and will thus not be admitted to the State Bar of Texas. The letter further informs you that a finding of standards deficiency will become final if you do not request "...in writing, a hearing before the Board..." If you want to provide any additional evidence, you have to request a hearing. It is interesting that the Board of Law Examiners does not inform you in this initial letter that you have a right to have an attorney in the hearing.

The typical letter will also ask you to contact the staff attorney for the Board of Law Examiners and try to negotiate a stipulation of facts and agreement in lieu of a hearing. You can find on the Board's website (www.ble.state.tx.us) the "Information About the Hearing Process" that provides you some platitudinous statements about the Hearing Process. You are advised in this information posting that you have a right to counsel but, "If you prefer to represent yourself, you may do so." With your hands sweating and your heart pounding, you now have to answer the question whether you as a law student really need a lawyer. Here are some reasons that may help you. We could even call them the Top Ten reasons you need an attorney.

1. Knowing the System

Any process is easier when you know the system. Obtaining an attorney means you have the advantage of their previous experience. Your attorney will know where to be, who to talk to, and how to manage your hearing. Try to find out how familiar your prospective attorney is with the BLE. Does your attorney represent clients before the BLE on a regular basis? Does your attorney know the staff attorneys and does the BLE know your attorney? Do you really want to be making decisions about what evidence to present, which witnesses to call, and facing cross examination on your own?

2. Organize your Defense

Properly preparing for your hearing is arguably the most important thing you can do. In some cases this can include gathering and presenting extensive amounts of materials to be presented to the Board as evidence or exhibits. In some cases it is also important to obtain witnesses who can attest to your character or your fitness or both. An attorney will be able to properly organize your defense by helping you and any witnesses to be prepared for the possible questions that will be asked in your hearing. If you have never done this before, how do you know what questions the BLE staff attorney will ask you and what is the best way to answer the tough questions? Further, an attorney will also know what kinds of evidence will be most appreciated by the BLE. The Board is made-up of unpaid attorneys who appreciate a streamlined presentation and if you are in the room by yourself, the hearing may drag on as you try to figure out what the staff attorney is doing and how best to persuade the BLE.

3. Dispassionate Response

In the hearing, the staff attorney and the Board are likely to ask you questions that are personal and very direct in order to strenuously explore your background and character. Serving as both a witness (to your own character) and as your own advocate can be too much even for a practiced

attorney. These stressful and potentially embarrassing situations can cause cloudy judgment and result in unclear answers to the Board's questions. Having an Attorney with you means you have someone that can make sure that the best information comes to light in your defense. Through practicing how the staff attorney will cross examine you and proper preparation of your defense, your attorney will make sure you give clear and appropriate answers that present the best "picture" of you. Hearing the questions for the first time in the hearing room can lead to disastrous results.

4. Stipulation of Facts

An important part of proper organization is knowing what facts to stipulate to. Do you really want to contest an arrest record that you have already admitted was correct to demonstrate your knowledge of the business records rule? Your attorney can provide valuable insight into how the Board will generally rule and which battles to fight and which to call a truce. Disclosure and candor are of the utmost importance in building rapport with the BLE, but in some cases, it is appropriate to oppose certain evidence presented against you. An attorney will be able to ensure that your hearing proceeds and concludes in a timely fashion, while preserving every opportunity to defend your character and seek the most advantageous outcome. This is especially important for law students who are unfamiliar with how the BLE operates and may feel intimidated or embarrassed by what happens in the hearing room.

5. Personal Relationships

One of the greatest advantages an attorney can offer you is the personal relationships he or she has built with the staff, attorneys, and Board's Panel Members. Obtaining an attorney who is familiar with the people involved in this process is very important. A personal relationship with the staff attorneys will help streamline the flow of information between parties, facilitate stipulations and agreements as to facts and help create a seemingly less hostile environment. The professional relationship between the BLE and your attorney built on handling numerous cases together can act as a doorway to bring about a fair and desirable outcome.

6. Hiring an Attorney shows the Board You Take This Hearing Seriously

A hearing in front of the BLE is a serious matter. The Board is charged with the mandate to protect the public from potential attorneys who do not have good moral character and/or the fitness that pertains to mental and emotional health; i.e. would you be a threat to the public for whatever reason the Board is considering? Not only will an attorney help prepare your defense, the attorney's presence will help to show the Board that you take the matter seriously and that you are taking a proactive approach in your own defense.

7. Subpoenas

One of the more difficult aspects of a BLE hearing is obtaining subpoenas. The Board has the authority to subpoena witnesses to testify at a hearing, however, the Board tries to use this power sparingly. This can be an especially difficult situation for law students who were previously employed by a judge and may want to have the judge testify either by phone or in person. In many cases, past employers can provide invaluable testimony to your character and fitness, and a judge's testimony certainly goes a long way. However, in order to uphold the Judicial Canons, judges will not provide testimony unless subpoenaed. Through their previous experience and personal relationships, your attorney will have greater avenues to properly petition the BLE in order to obtain the subpoenas necessary for your defense.

8. Reconsideration of Negative Preliminary Determination

The cases that come before the BLE generally involve a "Predetermination of Lack of Fitness and Character to Practice Law." In some cases the Board may be willing to reconsider their predetermination if all curative measures have been met. If appropriate, a written presentation can be submitted in order to petition the Board to reconsider. This course of action can be advantageous because it can settle the matter without the hearing before the Board, saving you a great deal of time and money. Having an attorney during this process is of even greater importance than at the hearing since this is the one opportunity to convince the Director of the

Board of Law Examiners before a formal hearing that you have the good moral character to practice law. Your attorney can analyze if it would be appropriate to advocate having the negative determination withdrawn, and prepare the best possible presentation to provide the best opportunity for this to happen.

9. Emotion is a Factor From Start to Finish

A hearing with the Texas Board of Law Examiners can be stressful, especially in hearings pertaining to character and fitness to practice law. This process will lead you to feel overwhelmed when you first receive the predetermination letter and that feeling will not go away. You have spent four years as an undergraduate, probably three years in law school, and your future livelihood is being decided on facts that happened when you were 17. Having an attorney can make sure the stress and the emotions involved do not harm the preparation that is necessary to properly present your side of the story. Will you be prepared to make objections during the hearing and be the best advocate for your right to practice law?

10. First in Line - The Attorneys Get To Go First!

One distinct advantage to having an attorney with you is that your name will be moved to the top of the docket. The docket is called at 8:50 a.m., hearings involving character and fitness are held first. Individuals who are represented by attorneys are called usually within only a few hours. Individuals who choose to have their hearings pro se will be called only after all individuals with representation are heard. (Depending on the day, this could create a very long wait). If you want to get on with your life and your anticipated practice of law, an experienced attorney can help move you along and certainly provide a comfort factor that you will not have by yourself.

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