

QUALIFICATIONS FOR FELLOWSHIP

QUALIFICATION REQUIREMENTS

I. QUALIFICATION REQUIREMENTS

Pursuant to Section 3.1, the Board has established the following qualification requirements and principles:

1. Membership should be limited to those trial lawyers who are unquestionably and eminently qualified.
2. Geography as such is immaterial. The Fellows should not arbitrarily be concentrated in metropolitan areas, distributed in rural areas, or denied to any area.
3. The membership should be limited to those trial lawyers who are outstanding and considered the best in a state or province. The College cannot house all the good trial lawyers in a state or province, or those trial lawyers who, although best in the locality, are not outstanding and among the best in the state or province.
4. High ethical and moral standards, professionalism and excellent character are indispensable attributes of a Fellow. No person should be admitted to Fellowship who lacks these qualities.
5. Membership is limited to those lawyers currently actively engaged in trial work as their principal activity. At the same time, the College should not be limited to one field of practice and, in fact, should include outstanding trial lawyers from all fields of trial practice who meet the qualification requirements.
6. No qualified person shall be excluded from consideration for fellowship or denied fellowship on account of that person's race, gender, religion, sexual orientation, or national origin.
7. The critical question is whether the candidate is an outstanding trial lawyer. Some lawyers become involved in long and complicated cases that require extremely able and outstanding trial counsel and yet may not be tried to a final conclusion in the courts. If a nominee in this category has otherwise demonstrated that he or she is an outstanding trial lawyer, the fact that the number of cases tried to a conclusion is relatively small may not alone foreclose admission. Likewise, once a nominee primarily responsible for such cases has established over an extended period a deserved reputation as a preeminent trial lawyer, the fact that the lawyer's last trial was several years before the date of nomination does not alone foreclose admission. While no minimum number of completed trials is prerequisite for admission, the smaller the number of trials over a career or in recent years in particular, the more critical it is that the Board of Regents be informed of the nature and extent of courtroom work the nominee has performed and continues to perform, and why he or she meets the requirement of current engagement in trial practice as their principal activity.
8. In evaluating a nominee's qualifications, the College shall consider the totality of his or her experience in adversarial proceedings, which shall include trials (jury and non-jury), preliminary injunction hearings and other contested hearings, including Daubert hearings, evidentiary hearings, arbitrations and administrative proceedings. Matters handled on pro bono basis shall be evaluated in the same matter as matters handled on a fee basis. In its evaluation, when considering the nominee's trial record, the College shall take into account the number of cases tried by the nominee, and the significance and complexity of such cases.
9. The College may act favorably upon the nomination of a lawyer with comparatively little trial experience during the years immediately preceding nomination if satisfied that
 - (a) the nominee's overall experience, success and standing as a trial lawyer meet the College's standards;
 - (b) the nominee continues to be actively engaged in trial work as his or her principal activity; and
 - (c) the lack of recent trial experience is due solely to the nature of the nominee's practice or other factors apart from a reluctance to take cases to trial.
10. While appellate experience – no matter how distinguished or exceptional – is not a substitute for trial experience, it can be a favorable factor for consideration in situations where a person being considered has had significant trial experience.

PRINCIPLES FOR UNIFORM APPLICATION OF QUALIFICATION REQUIREMENTS

A prospective nominee must demonstrate excellence in trial. The prospective nominee must be considered to be among the very best trial lawyers in his or her State or Province.

There is no minimum number of trials required for admission: a prospective nominee must have completed a reasonable number of trials. All areas of practice are eligible for consideration. Admission depends upon the breadth, weight, and complexity of the individual prospective nominee's total body of work.

Jury and bench trials are the primary adversarial proceedings considered for membership. For prospective nominees who have demonstrated excellence in trial, other adversarial proceedings are considered if they are trial-like; i.e., they include such elements as opening statements, examination of witnesses, and closing arguments. Appeals are not qualifying adversarial proceedings for purposes of admission to the College, although they may be favorably considered if a prospective nominee otherwise meets the criteria for membership.

Once a prospective nominee has otherwise satisfied the criteria, the absence of qualifying trials and other adversary proceedings in recent years will not foreclose admission so long as the prospective nominee is actively engaged in trial practice as the principal activity, and currently demonstrates the excellence in trial skills required for admission. Active engagement includes actual participation in the preparation and trial of cases, and may include active supervision of trial lawyers engaged in trial practice so long as the prospective nominee's primary activity is focused on trial practice as opposed to other management responsibilities (i.e., the prospective nominee is doing hands-on trial work as opposed to merely supervising others).

In assessing a candidate's qualifications, the College considers all experience in adversarial proceedings to be of importance:

- A proceeding is regarded as "adversarial" if it includes opening statements, direct and cross-examination and closing argument.
- Jury trials should be given the most weight by local committees, but bench trials, administrative proceedings, arbitrations and domestic relations matters should also be considered. Mediations should not be given any consideration.
- Notwithstanding these statements of policy, local committees should have the latitude to take into account local standards in defining trial experience. For example, in some instances, lead responsibility for complex, major litigation or multi-district cases should be considered.