RULES FOR ADMISSION OF APPLICANTS TO THE PRACTICE OF LAW IN ARIZONA

As Amended

Effective January 1, 2013

Address all inquiries regarding Examinations to:

Committee on Examinations
Supreme Court of Arizona
1501 W. Washington, Suite 104
Phoenix, Arizona 85007-3222
Telephone: 602-452-3971

Address all inquiries regarding Character and Fitness to:

Committee on Character and Fitness
Supreme Court of Arizona
1501 W. Washington, Suite 104
Phoenix, Arizona 85007-3222
Telephone: 602-452-3971

Website: www.azcourts.gov/cld/AttorneyAdmissions.aspx

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law

1. *Jurisdiction.* Any person or entity engaged in the practice of law or unauthorized practice of law in this state, as defined by these rules, is subject to this court's jurisdiction.

2. *Definitions.*

A. "Practice of law" means providing legal advice or services to or for another by:

(1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;

(2) preparing or expressing legal opinions;

(3) representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;

(4) preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity; or

(5) negotiating legal rights or responsibilities for a specific person or entity.

B. "Unauthorized practice of law" includes but is not limited to:

(1) engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d); or

(2) using the designations "lawyer," "attorney at law," "counselor at law," "law," "law office," "J.D.," "Esq.," or other equivalent words by any person or entity who is not authorized to practice law in this state pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 38(a), the use of which is reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law in this state.

C. "Legal assistant/paralegal" means a person qualified by education and training who performs substantive legal work requiring a sufficient knowledge of and expertise in legal concepts and procedures, who is supervised by an active member of the State Bar of Arizona, and for whom an active member of the state bar is responsible, unless otherwise authorized by supreme court rule.

D. "Mediator" means an impartial individual who is appointed by a court or government entity or engaged by disputants through written agreement, signed by all disputants, to mediate a dispute.

Rule 31 (continued)

E. "Unprofessional conduct" means substantial or repeated violations of the Oath of Admission to the Bar or the Lawyer's Creed of Professionalism of the State Bar of Arizona.

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

(c) Restrictions on Disbarred Attorneys' and Members' Right to Practice. No member who is currently suspended or on disability inactive status and no former member who has been disbarred shall practice law in this state or represent in any way that he or she may practice law in this state.

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

1. In any proceeding before the Department of Economic Security, including a hearing officer, an Appeal Tribunal or the Appeals Board, an individual party (either claimant or opposing party) may be represented by a duly authorized agent who is not charging a fee for the representation; an employer, including a corporate employer, may represent itself through an officer or employee; or a duly authorized agent who is charging a fee may represent any party, providing that an attorney authorized to practice law in the State of Arizona shall be responsible for and supervise such agent.

2. An employee may designate a representative, not necessarily an attorney, before any board hearing or any quasi-judicial hearing dealing with personnel matters, providing that no fee may be charged for any services rendered in connection with such hearing by any such designated representative not an attorney admitted to practice.

3. An officer of a corporation or a managing member of a limited liability company who is not an active member of the state bar may represent such entity before a justice court or police court provided that: the entity has specifically authorized such officer or managing member to represent it before such courts; such representation is not the officer's or managing member's primary duty to the entity, but secondary or incidental to other duties relating to the management or operation of the entity; and the entity was an original party to or a first assignee of a conditional sales contract, conveyance, transaction or occurrence that gave rise to the cause of action in such court, and the assignment was not made for a collection purpose.

4. A person who is not an active member of the state bar may represent a party in small claims procedures in the Arizona Tax Court, as provided in Title 12, Chapter 1, Article 4 of the Arizona Revised Statutes.

5. In any proceeding in matters under Title 23, Chapter 2, Article 10 of the Arizona Revised Statutes, before any administrative law judge of the Industrial Commission of Arizona or review board of the Arizona Division of Occupational Safety and Health or any successor

agency, a corporate employer may be represented by an officer or other duly authorized agent of the corporation who is not charging a fee for the representation.

6. An ambulance service may be represented by a corporate officer or employee who has been specifically authorized by the ambulance service to represent it in an administrative hearing or rehearing before the Arizona Department of Health Services as provided in Title 36, Chapter 21.1, Article 2 of the Arizona Revised Statutes.

7. A person who is not an active member of the state bar may represent a corporation in small claims procedures, so long as such person is a full-time officer or authorized full-time employee of the corporation who is not charging a fee for the representation.

8. In any administrative appeal proceeding of the Department of Health Services, for behavioral health services, pursuant to A.R.S. § 36-3413 (effective July 1, 1995), a party may be represented by a duly authorized agent who is not charging a fee for the representation.

9. An officer or employee of a corporation or unincorporated association who is not an active member of the state bar may represent the corporation or association before the superior court (including proceedings before the master appointed according to A.R.S. § 45-255) in the general stream adjudication proceedings conducted under Arizona Revised Statutes Title 45, Chapter 1, Article 9, provided that: the corporation or association has specifically authorized such officer or employee to represent it in this adjudication; such representation is not the officer's or employee's primary duty to the corporation but secondary or incidental to other duties related to the management or operation of the corporation or association; and the officer or employee is not receiving separate or additional compensation (other than reimbursement for costs) for such representation. Notwithstanding the foregoing provision, the court may require the substitution of counsel whenever it determines that lay representation is interfering with the orderly progress of the litigation or imposing undue burdens on the other litigants. In addition, the court may assess an appropriate sanction against any party or attorney who has engaged in unreasonable, groundless, abusive or obstructionist conduct.

10. An officer or full-time, permanent employee of a corporation who is not an active member of the state bar may represent the corporation before the Arizona Department of Environmental Quality in an administrative proceeding authorized under Arizona Revised Statutes. Title 49, provided that: the corporation has specifically authorized such officer or employee to represent it in the particular administrative hearing; such representation is not the officer's or employee's primary duty to the corporation but secondary or incidental to other duties related to the management or operation of the corporation; the officer or employee is not receiving separate or additional compensation (other than reimbursement for costs) for such representation; and the corporation has been provided with a timely and appropriate written general warning relating to the potential effects of the proceeding on the corporation's and its owners' legal rights.

Rule 31 (continued)

11. Unless otherwise specifically provided for in this rule, in proceedings before the Office of Administrative Hearings, or in fee arbitration proceedings conducted under the auspices of the State Bar of Arizona Fee Arbitration Committee, a legal entity may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter; such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

12. In any administrative appeal proceeding relating to the Arizona Health Care Cost Containment System, an individual may be represented by a duly authorized agent who is not charging a fee for the representation.

13. In any administrative matter before the Arizona Department of Revenue, the Office of Administrative Hearings relating to the Arizona Department of Revenue, a state or county board of equalization, the Arizona Department of Transportation, the Arizona Department of Economic Security, the Arizona Corporation Commission, or any county, city, or town taxing or appeals official, a taxpayer may be represented by (1) a certified public accountant, (2) a federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1), or (3) in matters in which the dispute, including tax, interest and penalties, is less than $5,000.00 (five thousand dollars), any duly appointed representative. A legal entity, including a governmental entity, may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter; such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

14. If the amount in any single dispute before the State Board of Tax Appeals is less than twenty-five thousand dollars, a taxpayer may be represented in that dispute before the board by a certified public accountant or by a federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1).

15. In any administrative proceeding pursuant to 20 U.S.C. § 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability, a party may be represented by an individual with special knowledge or training with respect to the problems of children with disabilities as determined by the administrative law judge, and who is not charging the party a fee for the representation. The hearing officer shall have discretion to remove the individual, if continued representation impairs the administrative process or causes harm to the parties represented.

16. Nothing in these rules shall limit a certified public accountant or other federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1), from

practicing before the Internal Revenue Service or other federal agencies where so authorized.

17. Nothing in these rules shall prohibit the rendering of individual and corporate financial and tax advice to clients or the preparation of tax-related documents for filing with governmental agencies by a certified public accountant or other federally authorized tax practitioner as that term is defined in A.R.S. § 42-2069(D)(1).

18. Nothing in this rule shall affect the ability of nonlawyer assistants to act under the supervision of a lawyer in compliance with ER 5.3 of the rules of professional conduct. This exemption is not subject to section (c).

19. Nothing in these rules shall prohibit the Supreme Court, court of appeals, superior courts, or limited jurisdiction courts in this state from creating and distributing form documents for use in Arizona courts.

20. Nothing in these rules shall prohibit the preparation of documents incidental to a regular course of business when the documents are for the use of the business and not made available to third parties.

21. Nothing in these rules shall prohibit the preparation of tax returns.

22. Nothing in these rules shall affect the rights granted in the Arizona or United States Constitutions.

23. Nothing in these rules shall prohibit an officer or employee of a governmental entity from performing the duties of his or her office or carrying out the regular course of business of the governmental entity.

24. Nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208. This exemption is not subject to paragraph (c) of this rule, as long as the disbarred attorney or member has been certified as provided in § 7-208 of the Arizona Code of Judicial Administration.

25. Nothing in these rules shall prohibit a mediator as defined in these rules from facilitating a mediation between parties, preparing a written mediation agreement, or filing such agreement with the appropriate court, provided that:

(A) the mediator is employed, appointed or referred by a court or government entity and is serving as a mediator at the direction of the court or government entity; or

(B) the mediator is participating without compensation in a non-profit mediation program, a community-based organization, or a professional association.

In all other cases, a mediator who is not a member of the state bar and who prepares or provides legal documents for the parties without the supervision of an attorney must be

Rule 31 (continued)

certified as a legal document preparer in compliance with the Arizona Code of judicial Administration, Part 7, Chapter 2, Section 7- 208.

26. Nothing in these rules shall prohibit a property tax agent, as that term is defined in A.R.S. § 32-3651, who is registered with the Arizona State Board of Appraisal pursuant to A.R.S. § 32-3642, from practicing as authorized pursuant to A.R.S. § 42-16001.

27. Nothing in these rules shall affect the ability of lawyers licensed in another jurisdiction to engage in conduct that is permitted under ER 5.5 of the rules of professional conduct.

28. In matters before the Arizona Corporation Commission, a public service corporation, an interim operator appointed by the Commission, or a non-profit organization may be represented by a corporate officer, employee, or a member who is not an active member of the state bar if:

(A) the public service corporation, interim operator, or non-profit organization has specifically authorized the officer, employee, or member to represent it in the particular matter,

(B) such representation is not the person's primary duty to the public service corporation, interim operator, or non-profit organization, but is secondary or incidental to such person's duties relating to the management or operation of the public service corporation, interim operator, or non-profit organization, and

(C) the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

Notwithstanding the foregoing provisions, the Commission or presiding officer may require counsel in lieu of lay representation whenever it determines that lay representation is interfering with the orderly progress of the proceeding, imposing undue burdens on the other parties, or causing harm to the parties represented.

29. In any landlord/tenant dispute before the Arizona Department of Fire, Building and Life Safety, an individual may be represented by a duly authorized agent who is not charging a fee for the representation, other than reimbursement for actual costs.

30. A person licensed as a fiduciary pursuant to A.R.S. § 14-5651 may perform services in compliance with Arizona code of judicial administration, Part 7, Chapter 2, Section 7-202. Notwithstanding the foregoing provision, the court may suspend the fiduciary's authority to act without an attorney whenever it determines that lay representation is interfering with the orderly progress of the proceedings or imposing undue burdens on other parties.

Rule 32. Organization of State Bar of Arizona

(a) Organization

1. *Establishment of state bar.* In order to advance the administration of justice according to law, to aid the courts in carrying on the administration of justice; to provide for the regulation and discipline of persons engaged in the practice of law; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service, and high standards of conduct; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence, and law reform; to carry on a continuing program of legal research in technical fields of substantive law, practice and procedure, and to make reports and recommendations thereon; to encourage

practices that will advance and improve the honor and dignity of the legal profession; and to the end that the responsibility of the legal profession and the individual members thereof may be more effectively and efficiently discharged in the public interest, and acting within the powers vested in it by the constitution of this state and its inherent power over members of the legal profession as officers of the court, the Supreme Court of Arizona does hereby perpetuate, create and continue under the direction and control of this court an organization known as the State Bar of Arizona, such organization which may be a non-profit corporation under Chapter 5 of Title 10 of the Arizona Revised Statutes, and all persons now or hereafter licensed in this state to engage in the practice of law shall be members of the State Bar of Arizona in accordance with the rules of this court. The State Bar of Arizona may sue and be sued, may enter into contracts and acquire, hold, encumber, dispose of and deal in and with real and personal property, and promote and further the aims as set forth herein and hereinafter in these rules.

2. *Precedence of rules.* The qualifications of attorneys at law for admission to practice before the courts of this state, the duties, obligations and certain of the grounds for discipline of members, and the method of establishing such grounds, subject to the right of this court to discipline a member when it is satisfied that such member is not mentally or morally qualified to practice law even though none of the specific grounds for discipline set forth in these rules exist, shall be as prescribed in these rules pertaining to admission and discipline of attorneys.

(b) Definitions. Unless the context otherwise requires, the following definitions shall apply to the interpretation of these rules relating to admission, discipline, disability and reinstatement of lawyers:

1. "Board" means Board of Governors of the State Bar of Arizona.

2. "Court" means Supreme Court of Arizona.

3. "Discipline" means those sanctions and limitations on members and others and the practice of law provided in these rules. Discipline is distinct from diversion or disability inactive status, but the term may include that status where the context so requires.

Rule 32 (continued)

4. "Discipline proceeding" and "disability proceeding" mean any action involving a respondent pursuant to the rules relating thereto. Further definitions applying to such proceedings are stated in the rule on disciplinary jurisdiction.

5. "Member" means member of the state bar, the classifications of which shall be as set forth in this rule.

6. "Non-member" means a person licensed to practice law in a state or possession of the United States or a non-lawyer permitted to appear in such capacity, but who is not a member of the state bar.

7. "Respondent" means any person subject to the jurisdiction of the court against whom a charge is received for violation of these rules.

8. "State bar" means the State Bar of Arizona created by rule of this court.

(c) Membership.

1. *Classes of Members.* Members of the state bar shall be divided into five classes: active, inactive, retired, suspended, and judicial. Disbarred or resigned persons are not members of the bar.

2. *Active Members.* Every person licensed to practice law in this state is an active member except for persons who are inactive, retired, suspended, or judicial members.

3. *Admission and Fees.* All persons admitted to practice in accordance with the rules of this court shall, by that fact, become active members of the state bar. Upon admission to the state bar, the applicant shall pay a fee as required by the Supreme Court, which shall include the annual membership fee for active members of the state bar. If an applicant is admitted to the state bar on or after July 1 in any year, the annual membership fee payable upon admission shall be reduced by one half. Upon admission to the state bar, an applicant shall also, in open court, take and subscribe an oath to support the constitution of the United States and the constitution and laws of the State of Arizona in the form provided by the Supreme Court. All members shall provide to the state bar office a current street address, e-mail address, telephone number, any other post office address the member may use, and the name of the bar of any other jurisdiction to which he the member may be admitted. Any change in this information shall be reported to the state bar within thirty days of its effective date. The state bar office shall forward to the court, on a quarterly basis, a current list of membership of the bar.

4. *Inactive Members.* Inactive members shall be those who have, as provided in these rules, been transferred to inactive status. An active member who is not engaged in practice in Arizona may be transferred to inactive status upon written request to the executive director. Inactive members shall not practice law in Arizona, or hold office in the State Bar or vote in State Bar elections. On application and payment of the membership fee and any delinquent fees that may be due under Rule 45(d), they may become active members. Inactive members

shall have other privileges, not inconsistent with these rules, as the Board may provide. Incapacitated members may be transferred to disability inactive status and returned to active status as provided in these rules.

5. *Retired Members.* Retired members shall be those who have, as provided in these rules, been transferred to retired status. An active, inactive or judicial member who is not engaged in active practice in any state, district, or territory of the United States may be transferred to retired status upon written request to the executive director. Retired members shall not hold State Bar office or vote in State Bar elections. Retired members shall not practice law in any state, district, or territory of the United States. Retired members may provide volunteer legal services to approved legal services organizations as defined in Rule 38(e) of these rules, except that retired members need not have engaged in the active practice of law within the last five years as required in Rule 38(e)(2)(B)(1) or Rule 38(e)(3) (A). Retired members may return to active status subject to the requirements imposed on inactive members who return to active status, as set forth in subsection (c)(4) of this rule. Retired members shall have other privileges, not inconsistent with these rules, as the Board may provide. Incapacitated members may be transferred to disability inactive status and return to active status as provided in these rules.

6. *Judicial Members.* Judicial members shall be justices of the Supreme Court of Arizona, judges of the Court of Appeals and Superior Court of Arizona and of the United States District Court for the District of Arizona. Judicial membership status shall likewise be accorded to members of the state bar who are full-time commissioners, city or municipal court judges, judges pro tempore or justices of the peace in the state of Arizona not engaged in the practice of law, or justices or judges of other courts of record of the United States or of the several states. Judicial members shall hold such classification only so long as they hold the offices or occupations entitling them to such membership. Judicial members shall be entitled to vote but shall not be entitled to hold office. Judicial members shall have such privileges, not inconsistent with the rules of this court, as the board provides. A judicial member who retires or resigns from the bench shall become an active member subject to all provisions of these rules.

7. *Membership Fees.* An annual membership fee for active members, inactive members, retired members and judicial members shall be established by the board with the consent of this court and shall be payable on or before February 1 of each year. No annual fee shall be established for, or assessed to, active members who have been admitted to practice in Arizona before January 1, 2009, and have attained the age of 70 before that date. The annual fee shall be waived for members on disability inactive status pursuant to Rule 63. Upon application, the Board of Governors may waive the dues of any other member for reasons of personal hardship.

8. *Computation of fee.* The annual membership fee shall be composed of an amount for the operation of the activities of the state bar and an amount for funding the Client Protection Fund, each of which amounts shall be stated and accounted for separately. Each active and inactive member, who is not exempt, shall pay the annual Fund assessment set by the court, to the state bar together with the annual membership fee, and the state bar shall transfer the

fund assessment to the trust established for the administration of the Client Protection Fund.

9. *Allocation of fee.* Upon payment of the membership fee each member shall receive a bar card issued by direction of the board evidencing payment. All fees shall be paid into the treasury of the state bar and, when so paid, shall become part of its funds, except that portion of the fees representing the amount for the funding of the Client Protection Fund shall be paid into the trust established for the administration of the Client Protection Fund.

10. *Delinquent Fees.* A fee not paid by the time it becomes due shall be deemed delinquent. An annual delinquency fee for active members, inactive members, retired members and judicial members shall be established by the board with the consent of this court and shall be paid in addition to the annual membership fee if such fee is not paid on or before February 1. A member who fails to pay a fee within two months after written notice of delinquency shall be summarily suspended by the board from membership to the state bar, upon motion of the state bar pursuant to Rule 62, but may be reinstated in accordance with these rules.

11. *Resignation.*

A. Members in good standing who wish to resign from membership in the state bar may do so, and such resignation shall become effective when filed in the office of the state bar, accepted by the board, and approved by this court. After the resignation is approved by this court, such person's status shall be changed to "resigned in good standing."

B. Such resignation shall not be a bar to the institution of subsequent discipline proceedings for any conduct of the resigned person occurring prior to the resignation. In the event such resigned person thereafter is disbarred, suspended or reprimanded, the resigned person's status shall be changed from "resigned in good standing" to that of a person so disciplined. Such resignation shall not be accepted if there is a disciplinary charge or complaint pending against the member.

C. Resigned persons in good standing may be reinstated to membership in the same manner as members summarily suspended under Rule 62 of these rules. Reinstatement of resigned persons shall be governed by the procedures set forth in Rule 64(f) and shall require:

i. payment of fees, assessments, and administrative costs the resigned person would have been required to pay;

ii. proof of completion of any hours of continuing legal education activity the resigned person would have been required to take, had the applicant remained a member; and

iii. proof that the resigned person possesses the character and fitness to resume practicing law in this jurisdiction.

D. A member wishing to resign shall apply on a form approved by the board and shall furnish such information as is required upon such form and shall make such allegations, under oath, as are required on such form.

12. *Insurance Disclosure.*

A. Each active member of the State Bar of Arizona shall certify to the State Bar on the annual dues statement or in such other form as may be prescribed by the State Bar on or before February 1 of each year: (1) whether the lawyer is engaged in the private practice of law; and (2) if engaged in the private practice of law, whether the lawyer is currently covered by professional liability insurance. Each active member who reports being covered by professional liability insurance shall notify the State Bar of Arizona in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. A lawyer who acquires insurance after filing the annual dues statement or such other prescribed disclosure document with the State Bar of Arizona may advise the Bar as to the change of this status in coverage.

B. The State Bar of Arizona shall make the information submitted by active members pursuant to this rule available to the public on its website as soon as practicable after receiving the information.

C. Any active member of the State Bar of Arizona who fails to comply with this rule in a timely fashion may, on motion of the State Bar pursuant to Rule 62, be summarily suspended from the practice of law until such time as the lawyer complies. Supplying false information in complying with the requirements of this rule shall subject the lawyer to appropriate disciplinary action.

(d) Powers of Board. The state bar shall be governed by the Board of Governors, which shall have the powers and duties prescribed by this court. The board shall:

1. Fix and collect, as provided in these rules, fees approved by the Supreme Court, which shall be paid into the treasury of the state bar.

2. Promote and aid in the advancement of the science of jurisprudence and improvement of the administration of justice.

3. Make appropriations and disbursements from funds of the state bar to pay necessary expenses for carrying out its functions.

4. Formulate and declare rules and regulations not inconsistent with these rules, necessary or expedient to enforce these rules and by rule fix the time and place of annual meetings of the state bar and the manner of calling special meetings thereof, and determine what number shall constitute a quorum of the state bar.

5. Appoint such committees, officers and employees it deems necessary or proper and prescribe their duties. Compensation of employees shall be as determined by the board.

Rule 32 (continued)

6. Appoint from time to time one or more executive committees composed of members of the board and vest in the executive committees any powers and duties granted to the board as the board may determine.

7. Prepare an annual statement showing receipts and expenditures of the state bar for the twelve preceding months. The statement shall be promptly certified by the treasurer and a certified public accountant, and transmitted to the chief justice of this court.

8. Create and maintain the Client Protection Fund, as required by this court and authorized by the membership of the state bar April 9, 1960, said fund to exist and be maintained as a separate entity from the state bar in the form of the Declaration of Trust established January 7, 1961, as subsequently amended and as it may be further amended from time to time by the board. The trust shall be governed by a Board of Trustees appointed by the Board of Governors in accordance with the terms of the trust and the trustees shall govern and administer the Fund pursuant to the provisions of the trust as amended from time to time by the board and in accordance with such other procedural rules as may be approved by the Board of Governors.

9. Have the power to form a non-profit corporation under Chapter 5 of Title 10 of the Arizona Revised Statutes upon a majority vote of the Board of Governors.

10. Implement and administer mandatory continuing legal education in accordance with Rule 45.

(e) Composition of Board.

1. For the purposes of these rules the state is divided into eight bar districts, numbered one through eight as follows:

A. Mohave, Navajo, Coconino and Apache counties shall be district 1.
B. Yavapai county shall be district 2.
C. Gila, Graham and Greenlee counties shall be district 3.
D. Cochise county shall be district 4.
E. Pima and Santa Cruz counties shall be district 5.
F. Maricopa county shall be district 6.
G. La Paz and Yuma counties shall be district 7.
H. Pinal county shall be district 8.

2. There shall be a Board of Governors of the state bar which shall consist of twenty-six (26) members, all authorized to vote. Four (4) members of the Board of Governors shall be designated as "public member." The public members shall not be members of the state bar, and shall not have, other than as consumers, a financial interest in the practice of law. Public members shall be appointed by the Board of Governors for terms of three (3) years. No more than two (2) public members may be from the same district. Public members may be reappointed for one additional term of three (3) years. No individual may serve more than six (6) years as a public member of the Board of Governors. There shall be three (3) at-large

members on the Board of Governors appointed by the Supreme Court for terms of three (3) years. Nineteen (19) members of the Board of Governors shall be active members in good standing of the state bar designated as "elected members" and elected as follows:

A. From Bar District 1, one member.
B. From Bar District 2, one member.
C. From Bar District 3, one member.
D. From Bar District 4, one member.
E. From Bar District 5, three members.
F. From Bar District 6, nine members.
G. From Bar District 7, one member.
H. From Bar District 8, one member.
I. From the Young Lawyers Section of the state bar, its President.

3. Beginning with the 2004 annual meeting, and every three (3) years thereafter, the Governors shall be elected from Bar Districts 1, 3, 4, 5 and 7 for terms of three (3) years. Beginning with the 2005 annual meeting and every three (3) years thereafter, the Governors shall be elected from Bar Districts 2, 6 and 8 for terms of three (3) years. Nominations for Governors shall be by petition signed by at least five (5) active members, and each candidate named in a petition and all members signing such petition shall have their principal place of business in the district the candidate is nominated to represent. Only members who have been admitted to practice before the Arizona Supreme Court for not less than five (5) years are eligible to be elected members of the Board of Governors. The election shall be by ballot. The ballots shall be mailed to those entitled to vote at least thirty (30) days prior to the date of canvassing the ballots, shall be returned by mail or through electronic voting means and shall be canvassed at the ensuing annual meeting. In other respects the election shall be as the Board of Governors by rule directs. Only active and judicial members shall be entitled to vote for the Governor or Governors of the Bar District in which such active and judicial members respectively have their principal place of business.

4. The President of the Young Lawyers Section shall be elected by a mail ballot to all members of the Section, such ballot announcing to all members of the Section that the President of the Young Lawyers Section will hold a voting position on the Board of Governors. The election of the President of the Young Lawyers Section shall be on a yearly basis and shall be completed within ninety days of the annual meeting.

5. Elected members of the board of governors shall hold office until their successors are elected and qualified. Should a member of the Board move his or her principal place of business from the district he or she represents, his or her seat shall be declared vacant. A vacancy among the elected members of the Board of Governors shall be filled by the remaining members of the Board. A vacancy in a public member position shall be filled by the Board of Governors. A vacancy in an at-large member position shall be filled by the Supreme Court.

Rule 32 (continued)

(f) Officers of the State Bar.

1. The officers of the state bar shall be a president, a president-elect, two vice-presidents, and a secretary/treasurer.

2. The term for the office of president shall expire at the conclusion of the annual meeting, and the president-elect whose term expired at the same annual meeting shall automatically become the president and assume the duties of such office. The first vice-president, whose term expired at the same annual meeting, shall automatically become the president-elect and assume the duties of such office.

3. The first and second vice-presidents and secretary/treasurer shall be elected from its membership by the board at the annual meetings. Such newly elected officers shall assume the duties of their respective offices at the conclusion of the annual meeting at which they are elected.

4. The officers of the state bar shall continue in office until their successors are elected and qualified.

5. An officer may be removed from his office by the vote of two-thirds or more of the members of the board of governors cast in favor of his removal at a meeting called for such purpose.

6. A vacancy in any office caused other than by expiration of a term may be filled by the board of governors at a meeting called for such purpose.

7. The president shall preside at all meetings of the state bar and the board, and if absent or unable to act, the president-elect or one of the vice-presidents shall preside. Additional duties of the president, president-elect, vice-presidents and the secretary/treasurer may be prescribed by the board.

8. No public member shall hold office.

(g) Annual meeting. Annual meetings of the state bar shall be held at times and places designated by the board. At the annual meeting reports of the proceedings of the board since the last annual meeting, reports of other officers and committees and recommendations of the board shall be received. Matters of interest pertaining to the state bar and the administration of justice may be considered and acted upon. Special meetings of the state bar may be held at such times and places as provided by the board.

(h) Administration of rules. Examination and admission of members shall be administered by the committee on examinations and the committee on character and fitness, as provided in these rules. Discipline, disability, and reinstatement matters shall be administered by the disciplinary commission, as provided in these rules. All matters not otherwise specifically provided for shall be administered by the board.

Rule 32 (continued)

(i) Filings made. Papers required to be filed with the state bar under these rules shall be filed at the office of the state bar in Phoenix, except as is otherwise set forth in these rules.

(j) Formal Requirements of Papers Filed. All transcripts of testimony and all copies of recommendations, documents, papers, pleadings, reports and records required or permitted by any provision of these rules relating to admission, discipline, disability, and reinstatement may be either typewritten or prepared by any mechanical duplicating process that is clear and legible, and if prepared by duplicating process no original typewritten copy shall be required.

(k) Payment of Fees and Costs. The payment of all fees, costs, and expenses required under the provisions of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement shall be made to the treasurer of the state bar. The payment of all fees, costs and expenses required under the provisions of these rules relating to application for admission to the practice of law, examinations and admission shall be made to the finance office of the administrative office of the courts.

(l) Expenses of Administration and Enforcement. The state bar shall pay all expenses incident to the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, except that costs and expenses shall be taxed against a respondent lawyer or applicant for readmission, as provided in these rules. The administrative office of the courts shall pay all expenses incident to administration and enforcement of these rules relating to application for admission to the practice of law, examinations and admission.

Rule 33. Committees; Practice

(a) Committees.

1. *Composition of Committees*. The examination of applicants and their admission to the practice of law shall conform to this rule. For such purposes, there shall be two Committees, the Committee on Examinations, and the Committee on Character and Fitness. The Committee on Examinations shall consist of twelve or more members in good standing of the state bar, and the Committee on Character and Fitness shall consist of eleven or more members in good standing of the state bar and four or more nonlawyer members of the public. Nonlawyer members shall have the same powers and duties of the lawyer members, as provided in these rules. The Chair of the Committee on Examinations and the Chair of the Committee on Character and Fitness shall each serve as liaison members of the other Committee.

2. *Appointment of Members*. Members of each committee shall be appointed by the Court, considering geographical, gender, and ethnic diversity, upon the recommendation of the Board of Governors of the State Bar of Arizona, which shall recommend at least three names for each appointment to be made. Members of the two Committees shall serve at the pleasure

Rule 33 (continued)

of the Court and may be removed from a Committee at any time by order of the Court. A member of either Committee may resign at any time.

3. *Terms of Office.* Members of the two Committees shall be appointed for an initial term of four (4) years and may be reappointed. A member whose term has expired shall continue to serve until a replacement is appointed, or until the member's participation in all matters begun during the member's term have been concluded. If a vacancy due to resignation or inability of a committee member to serve, the Court shall appoint another person to serve the unexpired term.

4. *Powers and Duties of Committees.* The Committee on Examinations shall examine applicants and advise this Court and the Committee on Character and Fitness of those who have passed the examination or examinations required for admission to the state bar. The Committee on Character and Fitness shall recommend to this Court for admission to the state bar those individuals who, having passed the examination or examinations required for admission to the state bar, are deemed by the Committee to be qualified on the basis of character and fitness. The Court will then consider the recommendations and either grant or deny admission.

(b) Power of Court to Revoke or Suspend License. Nothing contained in this rule shall be considered as a limitation upon the power and authority of this Court upon petition of either Committee or the Board or other proper body or person, or on its own motion, to revoke or suspend, after due notice and hearing, the right of an attorney to practice law in this state for fraud or material misrepresentation in the procurement of admission to practice.

(c) Practice in Courts. No person shall practice law in the State of Arizona without being admitted to the bar by compliance with the following rules, provided that an attorney practicing in another state or territory or insular possession of the United States or the District of Columbia may be permitted by any court to appear in a matter pro hac vice, in accordance with the procedures set forth in Rule 38(a).

Rule 34. Application for Admission

(a) Methods of admission to the practice of law in Arizona. Persons desiring to be admitted to the practice of law in the State of Arizona may apply for admission by one of three methods: (1) admission by Arizona uniform bar examination (2) admission on motion, or (3) admission by transfer of uniform bar examination score from another jurisdiction.

(b) Applicant Requirements and Qualifications.

1. No applicant shall be recommended for admission to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied that:

A. the applicant is or over the age of twenty-one years;

Rule 34 (continued)

B. the applicant is of good moral character;

C. the applicant is mentally, emotionally and physically able to engage in the practice of law, and possesses the required knowledge of the law to do so;

D. the applicant is a graduate with a juris doctor from a law school provisionally or fully approved by the American Bar Association at the time of graduation; provided that this requirement shall not apply to an examination applicant who has been actively engaged in the practice of law in some other state or states for at least five of the last seven years prior to filing an application for admission to practice in Arizona; and

E. if ever admitted to practice law in any jurisdiction, foreign or domestic, the applicant is presently in good standing, or the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction.

F. the Arizona uniform bar examination applicant has successfully completed the course on Arizona law described in paragraph (j) of this rule.

2. An applicant may be allowed to sit for the Arizona uniform bar examination prior to the award of a juris doctor agree if the applicant:

A. is a currently enrolled student in good standing at a law school fully or provisionally approved by the American Bar Association;

B. is expected to graduate with a juris doctor degree within one hundred twenty (120) days of the first day of early exam administration;

C. has satisfied all requirements for graduation with a juris doctor except for not more than eight (8) semester hours or its equivalent in quarter hours at the time of early exam administration;

D. will not be enrolled in more than two (2) semester hours or its equivalent in quarter hours during the month of early bar examination testing and the immediately preceding month;

E. has been determined by their school to be academically prepared for early testing;

F. provides by the deadline to the Committee on Character and Fitness, on a form provided by the Committee, an affidavit attested to by the applicant and the law school that they meet the above criteria. The law school's decision whether to certify that the student meets the criteria is final and shall not be subject to review by the Committee or the Court.

No applicant shall be recommended to practice law until graduation or satisfaction of all requirements for graduation, and completion of all requirements for admission to the practice of law under these rules. If an applicant under this subsection has not graduated with a juris doctor within one hundred twenty (120) days of the first day of early exam

administration, all parts of the Arizona uniform bar examination, including the score, are void and the applicant's examination scores shall not be disclose for any purpose. Scores may not be released until such time as satisfactory proof of award of juris doctor, as satisfactory proof of award of juris doctor, as determined by the Court, is provided to the Committee. An early examination which is voided shall count as an examination attempt under Rule 35(c) (1).

At the completion of the juris doctor requirements and within sixty (60) days after graduation, the applicant must cause his or her law school, dean, or registrar to submit to the Committee on Character and Fitness proof of graduation, showing his or her juris doctor was conferred within on hundred twenty (120) days of the first day of early exam administration. Failure to complete the course of study within one hundred twenty (120) days of the examination and provide evidence of graduation within an additional sixty (60) days shall render the applicant's score void.

3. The Committee on Character and Fitness shall endeavor to complete its inquiries, some or all of which may be delegated to the National Conference of Bar Examiners, to be in a position to recommend for or against a successful Arizona uniform bar examinee's admission to the practice of law no later than the time the results of the Arizona uniform bar examination are available for examination applicants. This time limitation is aspirational only, and may be extended for further inquiry and formulation of a recommendation when the circumstances of a case so require.

(c) Application and Character Report Materials. Any person desiring to be admitted to the practice of law in the State of Arizona must submit to the Committee on Character and Fitness an application in the form supplied by the Committee. The application for admission must be accompanied by required supporting documents and application fee.

1. The Arizona uniform bar examination applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court. For an Arizona uniform bar examination applicant only, the character report and related fee may be submitted separately from the application for admission.

2. An applicant for admission on motion or admission by transfer of uniform bar examination score shall submit character investigation materials together with the application.

(d) Documents Required in Support of Application. The following must accompany every application:

1. subject to the exception made in paragraph (b)(1)(D) of this rule, the applicant's law school diploma, or other evidence satisfactory to the Committee on Character and Fitness showing the applicant is a graduate with a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of graduation;

Rule 34 (continued)

2. if the applicant has been previously admitted to practice law in any jurisdiction, foreign or domestic, the certificate of the appropriate court agency (ies) or the mandatory bar association, whichever has custody of the roll of attorneys in such jurisdiction, indicating the date of admission and that the applicant is presently in good standing, that the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction;

3. for applicants taking the Arizona uniform bar examination, an examination fee as established by the Court;

4. an application fee as established by the Court;

5. a full face photograph of the applicant's head, neck and shoulders, without a hat, and not larger than two and one-half (2.5) inches by two and one half (2.5) inches nor smaller than two (2) inches by two (2) inches taken within six months prior to filing with the Committee on Character and Fitness; and

6. a complete set of the applicant's fingerprints. The Committee on Character and Fitness is authorized to receive criminal history information regarding any applicant for admission from any law enforcement agency in conjunction with the admissions process.

(e) Arizona Uniform Bar Examination Application Filing Schedule; Fees

1. On the basis of an application for admission by Arizona uniform bar examination properly and timely filed, with all required supporting documents and fees, the applicant will be certified to sit for the Arizona uniform bar examination.

2. The application for admission and all of the documents required to be submitted by the Arizona uniform bar examination applicant must be timely submitted, with required fees, in accordance with the schedule and filing fees established by the Court. In the event an application, documents or fees are submitted after the initial filing deadline, late fees as established by the Court shall be assessed. No application, documents or fees will be accepted after the close of filing deadline, as established by the Court.

Any applicant failing to pass a written Arizona uniform bar examination who wishes to take the next subsequent examination must submit an application for examination, required supporting documentation, and application and examination fees as established by the Court, no later than twenty days after the date of the letter notifying the applicant of the applicant's failure to pass the written examination. If the application is submitted after twenty days, a late application fee shall be paid in accordance with the schedule and filing fees established by the Court. No application for subsequent Arizona uniform bar examination will be accepted after the filing deadline as established by the Court.

3. When an application to take the Arizona uniform bar examination is properly filed with required supporting documents, the applicant shall be promptly notified that the application is in order and that the applicant is certified to sit for the Arizona uniform bar examination, specifying the time and place of such examination.

Rule 34 (continued)

(f) Admission on Motion.

1. An applicant who meets the requirements of (A) through (H) of this paragraph (f)(1) may, upon motion, be admitted to the practice of law in this jurisdiction.

The applicant shall:

A. either (i) have been admitted by bar examination to practice law in another jurisdiction allowing for admission of licensed Arizona lawyers on a basis equivalent to this rule or (ii) have been admitted by bar examination to practice law in one or more states, territories, or the District of Columbia, and have been admitted to and engaged in the active practice of law in another jurisdiction or jurisdictions allowing for admission of licensed Arizona lawyers on a basis equivalent to this rule for five of the seven years immediately preceding the date upon which the application is filed.;

B. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;

C. have been primarily engaged in the active practice of law in one or more states, territories, or the District of Columbia for five of the seven years immediately preceding the date upon which the application is filed;

D. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;

E. establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

F. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

G. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

H. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. For the purposes of this rule, the "active practice of law" shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed in advance of bar admission in some state, territory or the District of Columbia be accepted toward the durational requirement:

Rule 34 (continued)

A. representation of one or more clients in the practice of law;

B. service as a lawyer with a local, state, or federal agency, including military service;

C. teaching law full-time at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;

D. service as a judge in a federal, state, territorial, or local court of record;

E. service as a judicial law clerk;

F. service as corporate counsel; or

G. service as corporate counsel in Arizona before January 1, 2009 or while registered pursuant to Rule 38(h). Active practice performed within Arizona pursuant to Rule 38(h) may be applied to meet active practice requirements found in Rule 34(f)(1)(A)(ii) provided all other requirements of Rule 34(f) are met.

3. For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located. The "active practice of law" is further defined to require that at all times in the durational period the applicant has:

A. held a law license in "active" status;

B. spent one thousand (1,000) hours or more per year engaged in the practice of law, for each of the required five years in the durational period; and

C. derived at least fifty percent (50%) of non-investment income from the practice of law.

4. An applicant who has failed a bar examination administered in this jurisdiction or has who has passed the uniform bar examination in another jurisdiction but failed to achieve the Arizona scaled score within five years of the date of filing an application under this rule shall not be eligible for admission on motion.

5.The Court shall approve jurisdictions considered "reciprocal" to Arizona, and the Committee shall publish and make available a list of reciprocal jurisdictions.

(g) Admission on Motion Application Filing; Fees. Any applicant seeking admission on motion to the practice of law in Arizona must meet the requirements of paragraph (f) of this rule and shall:

1. file an application for admission on motion, including character investigation information, in a manner established by the Court, including all required supporting documents, and

Rule 34 (continued)

2. pay the application fee as established by the Court.

(h) Admission by Transfer of Uniform Bar Examination Score.

1. An applicant who has taken the uniform bar examination in another jurisdiction and who meets the requirements of (A) through (G) of this paragraph (h)(1) may be admitted to the practice of law in this jurisdiction.

The applicant shall:

A. have achieved a scaled score on the uniform bar examination that is equal to or greater than the minimum acceptable score established by the Committee on Examinations and that was earned within five years prior to the applicant's taking the oath of admission and being admitted to the practice of law in Arizona;

B. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction, earned within five years of the date of application;

D. establish that the applicant is currently a member in good standing in every jurisdiction, foreign or domestic, wherever admitted to practice law; if the applicant is not presently in good standing, establish that the applicant resigned in good standing or is capable of achieving good standing;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. For the purpose of paragraph (h)(1)(a) of this rule, a score is considered to have been earned on the date of administration of the uniform bar examination that resulted in the score.

3. An applicant who failed to earn the minimum acceptable score established by the Committee on Examinations in three or fewer attempts, regardless of where the uniform bar examination was taken, shall not be eligible for admission by transfer of uniform bar examination score under this paragraph.

Rule 34 (continued)

4. Before being admitted by transfer of uniform bar examination score, the applicant must complete a course on Arizona law, the content and method of delivery of which shall be approved by the Supreme Court.

(i) Admission by Transfer of Uniform Bar Examination Score Application Filing; Fees. Any applicant seeking admission to the practice of law based on transfer of uniform bar examination score must meet the requirements of paragraph (h) and shall:

1. file an application for admission by transfer of uniform bar examination score, including character investigation information, in a manner established by the Court, including all required supporting documents, and

2. pay the application fee as established by the Court.

(j) Completion of Course on Arizona Law. Before being admitted to the practice of law in Arizona, Arizona uniform bar examination applicants, applicants for admission by transfer of uniform bar examination score, and applicants for admission upon motion must complete a course on Arizona law, the content and delivery of which shall be approved by the Supreme Court.

(k) Deficiency in Examination Application and Supporting Documents. If the Committee on Examinations finds that an application is deficient, or the required supporting documents are deficient, or both, the Committee shall advise the applicant in writing of the deficiency, and the assessment of applicable late fees as established by the Court. The Committee shall allow the applicant either to supply additional information or to correct, explain in writing, or otherwise remedy the defects in the applicant's application, supporting documents, or fees up until the filing deadline. If such deficiencies in an examination application are not cured by the examination deadlines established by the Court, and if the Committee's reasons for refusing to grant permission for the applicant to take an examination are of record as a part of the applicant's file, the Committee shall withdraw the application and advise the applicant of such withdrawal and the reasons therefor.

(l) Deficiency in Character Report Materials. If the Committee on Character and Fitness finds that the character report materials are deficient, the Committee shall advise the applicant in writing of the deficiency and shall allow a reasonable time for the applicant either to submit additional written information or relevant documentation, or to correct or otherwise remedy the defects in the applicant's supporting documents. Thereafter, if such deficiencies have not been cured within the designated time period, the Committee may abandon processing and review of the investigation into the applicant's character, and shall advise applicant of such abandonment and the reasons therefor.

(m) Failure to Meet Standards; Effect on Time for Reapplication. If the Committee or the Court has denied an applicant admission to the practice of law by reason of the failure to meet the standards required by paragraph (b) of this rule, such applicant may not reapply for a period of five years from the date of denial of admission, unless the Committee or the Court orders otherwise.

Rule 34 (continued)

(n) Completion of Professionalism Course.

1. *New Admittee Professionalism Course.* Except as otherwise provided in this rule, within one year after being admitted to the practice of law, the applicant shall complete the state bar course on professionalism, or an equivalent course on the principles of professionalism approved or licensed by the Board of Governors of the State Bar of Arizona for this purpose.

A. A new admittee taking inactive status immediately upon admission is exempt from completing such a course but shall complete one within 12 months of becoming an active member of the state bar.

B. A new admittee who is an active member but neither resides nor practices law in Arizona is exempt from completing such a course but shall complete one within 12 months of becoming a resident of or commencing the practice of law in Arizona.

2. *Summary Suspension.* A new admittee who fails to comply with the requirements of paragraph (j)(1) of this rule shall be summarily suspended from the practice of law in Arizona, upon motion of the state bar pursuant to Rule 62, provided that a notice by certified, return receipt mail of such non-compliance shall have been sent to the member, mailed to the member's last address of record in the state bar office at least thirty days prior to such suspension, but may be reinstated in accordance with these rules.

Rule 35. Examination Requirements

(a) Examination Dates and Places. The Arizona uniform bar examination will be administered two times each year, once in February and once in July, and at such locations as the Committee on Examinations, in its discretion, deems appropriate. An applicant who has been granted permission to take the examination will be advised of the date and place at least two weeks before the examination.

(b) Examination Subjects; Grading.

1. The examination shall be the uniform bar examination prepared by the National Conference of Bar Examiners, which consists of six Multistate Essay Examination questions, two Multistate Performance Test tasks, and the Multistate Bar Examination. The Multistate Essay examination shall be weighted 30%, the Multistate Performance Test shall be weighted 20%, and the Multistate Bar Examination shall be weighted 50% in calculating uniform bar examination scores. Applicants may be tested on any subject matter listed by the National Conference of Bar Examiners as areas of law to be tested on the uniform bar examination. Questions will be not be labeled and may include more than one subject matter.

2. The Committee on Examinations may use such grading or scoring system for the Multistate Essay Examination and Multistate Performance Test as the Committee on Examinations, in its discretion, deems appropriate. Answers to the Multistate Essay Examination shall be graded according to generally applicable principles of law. Raw scores on the Multistate Essay

Rule 35 (continued)

Examination and the Multistate Performance Test shall be scaled to the Multistate Bar Examination scores according to the method approved by the National Conference of Bar Examiners for jurisdictions that administer the uniform bar examination.

3. An applicant who takes the uniform bar examination in Arizona or seeks to transfer a uniform bar examination score from another uniform bar examination jurisdiction will be deemed to have satisfied the requirements of the Arizona uniform bar examination if the applicant, achieves a scaled score equal to or greater than the minimum acceptable score established by the Committee for the test administration, under conditions consistent with the practices and procedures of the Committee on Examinations and the National Conference of Bar Examiners. The passing score for each test administration shall be posted on the Supreme Court Website. Results of the bar examination will be published and mailed or e-mailed at such dates and times as the Committee deems appropriate. Arizona bar examination attempts prior to adoption of the uniform bar exam, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules.

4. Examination grades of an applicant will not be disclosed to the public. The Committee is authorized to

A. release statistical results of the examination;

B. disclose to the law school from which the applicant graduated the applicant's status as pass/fail/withdrew;

C. certify, upon an applicant's request, an applicant's Multistate Bar Examination score to other jurisdictions in which the applicant seeks admission; and

D. disclose an applicant's scores on the uniform bar examination to the National Conference of Bar Examiners.

5. Testing accommodations will be provided for an Arizona uniform bar examination applicant demonstrating a disability to the extent such accommodations are reasonable, consistent with the nature and purpose of the examination, and necessitated by the applicant's disability. An applicant seeking an accommodation shall file a request for testing accommodation in such form as prescribed by the Committee. A fully completed request for accommodation, including supporting documentation, shall be submitted with the application for the examination in accordance with filing deadlines as set by the Court.

6. Before being recommended by the Committee on Character and Fitness for admission to the practice of law in Arizona, an applicant must pass a professional responsibility examination, which shall be the Multistate Professional Responsibility Examination prepared and administered by the National Conference of Bar Examiners. An applicant seeking to take the Multistate Professional Responsibility Examination shall file an application directly with, and pay the fees specified by, the National Conference of Bar Examiners.

Rule 35 (continued)

7. The Committee on Examinations will file with the Court thirty (30) days before each administration of the Multistate Professional Responsibility Examination that score which will be the minimum acceptable score for that administration of the examination.

8. An applicant by Arizona uniform bar examination or transfer of uniform bar examination score from another jurisdiction must submit proof satisfactory to the Committee on Examinations that the applicant has taken the Multistate Professional Responsibility Examination and received a minimum acceptable score within two (2) years before the successful bar examination or within the time frame for taking the oath of admission after the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations.

9. All applicants who receive a passing grade on the examinations and who are found to be otherwise qualified under these rules shall be recommended for admission to the practice of law.

10. The Committee on Examinations may take action, by majority vote, to enforce the Committee's own conditions, practices, and procedures, as well as those of the National Conference of Bar Examiners, including expulsion from the examination, temporary withholding of a score, or nullification of a score.

(c) Subsequent Examinations; Role of Committee on Character and Fitness.

1. An applicant failing to pass one uniform bar examination in any jurisdiction may apply for two subsequent uniform bar examinations in Arizona if the applicant meets all requirements listed in Rule 34(b). The application, in the form specified by Rule 34(c), shall be accompanied by the application and examination fees established by the Court, all supporting documents specified in Rule 34(d) or as the Committee on Character and Fitness may request and, if required by the Committee, such additional investigation fee as the Committee may determine is reasonably required to properly investigate the qualifications of such applicant. Arizona bar examination attempts prior to adoption of the uniform bar exam, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules.

2. An applicant who files an application to sit for the Arizona uniform bar examination, and who withdraws such application or fails to appear for or complete such examination and who desires to sit for a subsequent examination, shall make the same filings as if such applicant had written and failed the examination. Any applicant who fails the Arizona uniform bar examination, withdraws from the examination, fails to complete the examination, or does not appear for and write the examination, and who does not apply for and write the next succeeding examination, shall, if applying for any subsequent examination, file a new application with fees required for an original filing as if such applicant had never presented an application to the Committee on Character and Fitness.

3. An applicant taking the uniform bar examination three times in any jurisdiction and failing to earn the minimum acceptable score established by the Committee on Examinations will not be

permitted to take a further examination, unless all requirements listed in Rule 34(b) are met, and the Committee on Examinations grants permission for the applicant to write another examination in Arizona. The applicant shall submit a written request to the Committee on Examinations stating the additional study and preparation that the applicant has made to qualify for further examination. If the Committee finds reasonable cause to believe the applicant may successfully pass a further examination, it shall grant permission to sit for the additional Arizona uniform bar examination. Arizona bar examination attempts prior to adoption of the uniform bar exam, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules.

4. An applicant aggrieved by any decision of the Committee on Examinations may file a petition for review by the Court as directed and within the time limits set forth in Rule 36(g)(1); however, the Committee on Examinations' decision regarding an applicant's grade score is final and will not be reviewed by the Court absent extraordinary circumstances.

Rule 36. Procedure before the Committee on Character and Fitness

(a) General Provisions

1. *Nature of Proceedings.* Informal or formal proceedings before the Committee on Character and Fitness are neither civil nor criminal, but are sui generis. Proceedings shall be styled as follows:

BEFORE THE COMMITTEE ON CHARACTER AND FITNESS
OF THE SUPREME COURT OF ARIZONA

In the Matter of the Application of	)
_____	)
To be Admitted to the Practice of	)
Law	)

2. *Representation by Counsel; Duties of Bar Counsel.*

A. *Representation of the Applicant.* The applicant may be represented by counsel of the applicant's choosing in any proceedings before the Committee.

B. *Representation of the Committee at Formal Hearing.* In the event the Committee, by vote of a majority of its members, finds that a proposed formal hearing will be complex, or for other reasons deemed sufficient, the Committee may certify to this Court that in its opinion a special investigator should be appointed from active members of the State Bar of Arizona to further investigate and present the evidence bearing upon the issue of the applicant's qualifications to be admitted to the practice of law in Arizona. The chief justice of this Court may appoint such a special investigator to further investigate said matter and to present all available evidence at the formal hearing.

Rule 36 (continued)

C. *Duties of Bar Counsel.*

i. *Court review.* Upon the Committee's request, bar counsel shall represent the Committee before the Court in any matter in which the applicant has petitioned for review of the Committee's decision after a hearing, either formal or informal. In such cases, the Committee shall be deemed bar counsel's client.

ii. *Conditional admissions.* Bar counsel shall monitor and supervise attorneys who have been admitted with conditions pursuant to paragraph (a)(4)(D) of this rule. At the end of the conditional period, bar counsel shall forward a report to the Committee regarding the attorney's compliance or non-compliance with the imposed conditions.

3. *Depositions and Subpoenas.* All of the rules of civil procedure authorizing, relating to and governing depositions in civil proceedings within and outside the state are applicable to depositions desired either by the applicant or by the Committee in connection with investigations and hearings. Either the Committee or the applicant shall be entitled to have subpoenas (including duces tecum) issued by the Chair of the Committee to require the attendance of witnesses at a deposition, informal hearing, formal hearing, and any continuance thereof. The party desiring issuance of such subpoena shall file the application therefor with the Chair of the Committee with a brief statement of the reasons for requiring such subpoena.

4. *Dispositional Alternatives.* The Committee's investigation or the informal or formal hearings may result in the following range of dispositional alternatives:

A. recommendation for admission;

B. denial of admission;

C. denial of admission, accompanied by a suggestion of re-application in the future upon the occurrence of specified circumstances, which circumstances may include the requirement the applicant obtain assistance or treatment for a specified period in the case of current substance abuse or mental or emotional instability and provide appropriate evidence of the applicant's ability to engage in the practice of law;

D. recommendation for admission conditioned on compliance by the applicant with specified behavior for a specified period pursuant to paragraphs (e)(8)(C) or (f)(6) of this rule; provided however that applicants for admission on motion shall not be recommended for conditional admission.

(b) Determination of Character and Fitness; Burden of Proof; Relevant Factors and Evaluation. The applicant shall have the burden of proving good moral character by clear and convincing evidence. The Committee on Character and Fitness shall, in determining the character and fitness of an applicant to be admitted to the state bar, review, consider, and evaluate the traits, characteristics, criminal history, and conduct set forth below.

Rule 36 (continued)

1. *Relevant Traits and Characteristics*. An applicant shall demonstrate current and past possession of the following traits and characteristics; a significant deficiency in one or more of these traits and characteristics in an applicant may constitute a basis for denial of admission:

A. honesty;

B. trustworthiness;

C. diligence;

D. reliability; and

E. respect for law and legal institutions, and ethical codes governing attorneys.

2. *Conviction of a Crime.*

A. There shall be a presumption, rebuttable by clear and convincing evidence presented at an informal or formal hearing, that an applicant who has been convicted of a misdemeanor involving a serious crime or of any felony shall be denied admission. "Serious crime" includes any crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful extortion, misappropriation, theft, or moral turpitude, including a conspiracy, a solicitation of another, or any attempt to commit a serious crime.

B. The Committee shall transmit any recommendation for admission of an applicant who has been convicted of a misdemeanor involving a serious crime or of any felony to the clerk of the Court prior to admission.

3. *Other Relevant Conduct*. The revelation or discovery of any of the following should be treated as cause for further detailed investigation by the Committee on Character and Fitness prior to its determination whether the applicant exhibits current and past possession of the traits and characteristics evidencing the requisite character and fitness to practice law:

A. unlawful conduct not resulting in conviction of a crime as set forth in paragraph (b)(2) of this rule;

B. academic misconduct;

C. making a false statement, including omissions;

D. misconduct in employment;

E. acts involving dishonesty, fraud, deceit or misrepresentation;

Rule 36 (continued)

F. abuse of legal process;

G. neglect of financial responsibilities;

H. neglect or disregard of ethical or professional obligations;

I. violation of an order of court;

J. evidence of conduct indicating mental or emotional instability impairing the ability of an applicant to perform the functions of an attorney;

K. evidence of conduct indicating substance abuse impairing the ability of an applicant to perform the functions of an attorney;

L. denial of admission to the practice of law in another jurisdiction on character and fitness grounds; and/or

M. disciplinary complaints or disciplinary action by an attorney disciplinary agency or other professional disciplinary agency of any jurisdiction.

4. *Evaluation of Criminal History and Other Relevant Conduct.* The Committee on Character and Fitness shall determine whether the character and fitness of an applicant qualifies the applicant for admission. In making this determination, the following factors shall be considered in assigning weight and significance to an applicant's prior conduct:

A. the applicant's age, experience and general level of sophistication at the time of the conduct;

B. the recency of the conduct;

C. the reliability of the information concerning the conduct;

D. the seriousness of the conduct;

E. consideration given by the applicant to relevant laws, rules and responsibilities at the time of the conduct;

F. the factors underlying the conduct;

G. the cumulative effect of the conduct;

H. the evidence of rehabilitation;

I. the applicant's positive social contributions since the conduct;

J. the applicant's candor in the admissions process; and/or

Rule 36 (continued)

K. the materiality of any omissions or misrepresentations by the applicant.

(c) Recommendation for Admission Based on Preliminary Review.

1. The Committee and its staff shall conduct a complete preliminary review of the applications based on the categories of criminal convictions and other relevant conduct listed in paragraphs (b)(2) and (3) of this rule.

2. If it is determined that there is no conduct that falls within one of these categories, the Committee shall recommend the applicant for admission, or recommend the applicant for admission pending the receipt of a passing score on the bar examination(s).

(d) Further Investigation.

1. Upon completion of the preliminary review, if it is determined that there is conduct that falls within one or more of the categories listed in paragraphs (b)(2) and (3) of this rule, a committee member shall be designated to investigate as appropriate and evaluate whether, and to what extent, the applicant's prior criminal conviction(s) or other conduct should prevent the applicant's admission.

2. In the event the committee member requires additional information or documentation to facilitate making a determination of the applicant's character and fitness, the member may make an inquiry, either orally or in writing, to the applicant or any other person, for additional information or documentation, and may utilize the subpoena and deposition powers as set forth in paragraph (a)(3) of this rule.

3. After the necessary investigation, the committee member shall either (i) dismiss the inquiry and recommend the applicant for admission, or (ii) recommend that an informal or formal hearing be held pursuant to paragraphs (e) or (f) of this rule. The Committee shall review the recommendation that a formal hearing be held.

4. Notwithstanding the above provisions, an applicant shall not be recommended for admission without at least an informal hearing pursuant to paragraph (e) of this rule in any cases in which the investigation reveals and the Committee determines that there are serious allegations of conduct by the applicant, whether or not such conduct resulted in a criminal conviction, that involve:

A. commission of a violent crime;

B. fraud, deceit or dishonesty on the part of the applicant that has resulted in damage to others;

C. neglect of financial responsibilities due to circumstances within the control of the applicant; or

D. disregard of ethical or professional obligations.

Rule 36 (continued)

(e) Informal Hearings. Informal hearings shall be held in cases involving serious allegations of conduct specified in paragraph (d)(4) above. Informal hearings may also be held in other cases as determined by the Committee.

1. *Notice.* Oral or written notice shall be provided to the applicant, which notice shall advise the applicant generally of the subject, or subjects, of the informal hearing and the time and place thereof.

2. *Informal Hearing Record.* All informal hearings shall be recorded.

3. *Permissible Evidence.* Documents or other information provided to the Committee in confidence shall remain confidential and may be used at the hearing only if the providing party agrees. Absent such agreement, confidential information shall not be presented at the hearing or otherwise considered by the Committee in determining the applicant's character and fitness for admission to practice law.

4. *Disclosure; Discovery.* Twelve (12) days before the hearing, or otherwise as agreed by the parties, the Committee and the applicant shall simultaneously disclose documents and other information to be used at the hearing. The Committee need not provide to the applicant copies of documents the applicant has submitted during the application process, and applicant need not provide to the Committee copies of documents submitted with the application. Confidential information shall be subject to disclosure or discovery only if the providing party has agreed to its use at the hearing as set forth in paragraph (e)(3) of this rule. The chair of the Committee, in the exercise of discretion, may permit untimely disclosed information to be admitted at hearing, for good cause shown.

5. *Informal Hearing Panel.* An informal hearing panel shall consist of at least three members of the Committee. An informal hearing panel shall act for and on behalf of the Committee for and on behalf of the Committee for all actions and decisions related to informal hearings.

6. *Attendance of Panel Members at Hearing.* In the case of an informal hearing required by this rule, at least three members shall attend the hearing. Panel members who do not attend the hearing shall review the entire record of the informal hearing before participating in making a recommendation. Members are strongly encouraged to participate in person.

7. *Concurrence of Members.* A recommendation of admission shall require the concurrence of a majority of the panel members, but in no event less than three members. If this requirement is not met, a formal hearing shall be held pursuant to paragraph (f) of this rule.

8. *Decision.* The Committee's decision shall be in writing.

A. *Recommendation to admit.* The Committee's recommendation to admit an applicant shall be deemed final, subject to the issuance of the certification by the clerk of this Court.

B. *Recommendation not to admit; formal hearing required.* If the Committee's decision is not to recommend admission, a copy of the record of the informal hearing shall be made a

part of the applicant's file, and a formal hearing shall be held pursuant to paragraph (f) of this rule.

C. *Recommendation for admission with conditions; review by the Court.* If the Committee recommends admission with conditions, the Committee may consult with bar counsel to determine conditions of admission. The Committee's decision shall contain findings and a recommendation outlining the conditions of the admission. Such decision shall reflect that bar counsel shall monitor and supervise the conditional admittee, and that if the conditional admittee materially violates a condition or conditions of the admission, bar counsel shall commence a discipline proceeding, which may result in any sanction ranging from extension of the period of conditional admission to disbarment. The decision recommending admission with conditions shall be transmitted to the Court for review in accordance with paragraph (g)(2) of this rule.

D. *Notice to applicant.* In all cases, the Committee's decision shall be mailed to the applicant at the applicant's last known address, and a copy shall be mailed to the applicant's attorney of record, if applicable.

(f) Formal Hearings. The Committee shall hold a formal hearing, or formal hearings, as may be reasonably required and as required pursuant to this rule, to enable the Committee to pass upon the applicant's qualifications.

1. *Notice.* Written notice of such formal hearing or hearings shall be given to bar counsel and the applicant, specifying:

A. the time, place and nature of the hearing;

B. the legal authority and jurisdiction under which the hearing is held;

C. a reference to the particular sections of the statutes and rules involved, if applicable;

D. a short plain statement as to the subject, or subjects, and purpose, of the hearing;

E. that the applicant may be represented by an attorney at the hearing, that the applicant shall be afforded an opportunity to respond and present evidence of all issues involved, and that the applicant shall have the right of cross-examination; and

F. that the applicant shall have the burden of proving, by clear and convincing evidence, the requisite character and fitness qualifying the applicant for admission to the practice of law in Arizona.

2. *Conduct of Formal Hearings.*

A. The applicant or the applicant's attorney shall present evidence on behalf of the applicant at the hearing. One or more members of the Committee, or an appointed special investigator, may present evidence on behalf of the Committee. The chairperson shall

designate any member of the Committee hearing panel as the presiding member and such member shall make all evidentiary and procedural rulings.

B. The formal hearing shall be recorded and may be conducted without adherence to the Arizona Rules of Evidence. Neither the manner of conducting the hearing nor the failure to adhere to the Rules of Evidence shall be grounds for reversing any decision by the Committee provided the evidence supporting such decision is substantial, reliable and probative. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The applicant shall have the right to be represented by counsel, to submit evidence, and to cross-examination witnesses.

C. Copies of documentary evidence may be received at the discretion of the presiding panel member. Upon request, any Committee member, an appointed special investigator, bar counsel in connection with duties set forth in Rule 36 (a)(2)(C), the applicant, or applicant's counsel shall be given an opportunity to compare the copy with the original.

D. Notice may be taken of judicially cognizable facts.

E. The applicant shall have the burden of proving, by clear and convincing evidence, the requisite character and fitness qualifying the applicant for admission to the practice of law.

3. *Permissible Evidence.* Documents or other information provided to the Committee in confidence shall remain confidential and may be used at the hearing only if the providing party agrees. Absent such agreement, confidential information shall not be presented at the hearing or otherwise considered by the Committee in determining the applicant's character and fitness for admission to practice law.

4. *Disclosure; Discovery.* Twelve (12) days before the hearing, or otherwise as agreed by the parties, the Committee and the applicant shall simultaneously disclose documents and other information to be used at the hearing. The Committee need not provide to the applicant copies of documents the applicant has submitted during the application process, and applicant need not provide to the Committee copies of documents submitted with the application. Confidential information shall be subject to disclosure or discovery only if the providing party has agreed to its use at the hearing as set forth in paragraph (f)(3) of this rule. The chair of the Committee, in the exercise of discretion, may permit untimely disclosed information to be admitted at hearing, for good cause shown.

5. *Formal Hearing Panel.* A formal hearing panel shall consist of at least a majority of the current members of the Committee. Panel members may attend hearings using electronic means but are strongly encouraged to participate in person. A decision shall be made by a majority of the panel, as defined above, as soon as practicable.

6. *Decision.* The Committee's final decision shall be in writing. If the Committee recommends against admission, it shall make separate findings of fact. If the Committee recommends admission with conditions, the Committee may consult with bar counsel to determine the conditions of admission. The Committee's decision shall contain findings and a

recommendation outlining the conditions of the admission. Such decision shall reflect that bar counsel shall monitor and supervise the conditional admittee, and that if the conditional admittee materially violates a condition or conditions of the admission, bar counsel shall commence a discipline proceeding, which may result in any sanction ranging from extension of the period of conditional admission to disbarment. The decision recommending admission with conditions shall be transmitted to the Court for review in accordance with paragraph (g)(2) of this rule.

7. *Notice to Applicant.* The Committee's final decision shall be mailed to the applicant at the applicant's last known address, and a copy shall be mailed to the applicant's attorney of record, if applicable.

8. *Denial of Admission as Final Decision.* The decision of the Committee to deny admission is final, absent the filing of a petition for review by the applicant pursuant to paragraph (g)(1) of this rule.

(g) Review by the Court.

1. *Petition for Review.*

A. An applicant aggrieved by any decision of the Committee on Examinations or the Committee on Character and Fitness may, within twenty (20) days after such occurrence, file a verified petition with this court for a review, except as provided in Rule 35(d)(7). The petition shall succinctly and briefly state the facts that form the basis for the complaint, and applicant's reasons for believing this Court should review the decision of the Committee on Examinations or the Committee on Character and Fitness.

B. A copy of said petition shall be promptly served upon the Committee from which the complaint arose and that Committee shall, within thirty days of such service, transmit said applicant's file, including all findings and reports prepared by or for either Committee, and a response to the petition fully advising this Court as to that Committee's reason for its decision and admitting or contesting any assertions made by the applicant in said petition. Thereupon this Court shall consider the papers so filed, together with the petition and response, and make such order, hold such hearings and give such directions as it may in its discretion deem best adapted to a prompt and fair decision as to the rights and obligations of applicant judged in the light of that Committee's and this Court's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

2. *Review on Court's Own Motion.* All recommendations for admission with conditions are subject to *de novo* review by the Court. The Committee on Character and Fitness shall file its written decision recommending admission with conditions, along with the memorandum of understanding between the applicant and the Committee, with the clerk. The Court may decline review, or it may grant review on its own motion. If the Court declines review, the Committee's recommendation for admission with conditions shall be final. If the Court grants review, the Court may issue such orders as may be appropriate for its review, including remanding the matter to the Committee for further action, ordering transmittal of the

applicant's file, ordering additional briefing and/or setting the matter for oral argument. After receiving all the appropriate pleadings and record, the matter shall be deemed submitted to the Court for its decision.

Rule 37. Miscellaneous Provisions Relating to Admissions

(a) Time Limitation on Admission.

1. No Arizona Uniform examination applicant shall be admitted to the practice of law in Arizona until the applicant has successfully completed the Arizona uniform bar examination, satisfied the Multistate Professional Responsibility Examination requirements, and has been recommended for admission by the Committee on Character and Fitness. Failure to take the oath of admission and be admitted to the practice of law in Arizona within five years of successful Arizona uniform bar examination will void all examination scores, and the applicant will be required to successfully retake all required examinations and comply with all required procedures relating to Character and Fitness determinations. Arizona bar examination attempts prior to adoption of the uniform bar exam, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules.

2. No applicant for admission on motion shall be admitted to the practice of law in Arizona until the applicant has successfully satisfied all requirements of Rule 34, Rule 36, and Rule 37, and has been recommended for admission by the Committee on Character and Fitness. Failure to take the oath of admission and be admitted to the practice of law in Arizona within five years from the date of application will void all application and character investigation materials, and the applicant will be required to resubmit an application and comply with all required procedures relating to admission on motion.

3. No applicant for admission based on transfer of uniform bar examination score from another jurisdiction shall be admitted to the practice of law in Arizona until the applicant has successfully satisfied all requirements of Rule 34, Rule 35, Rule 36, and Rule 37, and has been recommended for admission by the Committee on Character and Fitness. Failure to take the oath of admission and be admitted to the practice of law in Arizona within five years of a uniform bar examination in another jurisdiction for which the applicant earned the minimum acceptable score established by the Committee on Examinations will void all application and character investigation materials, and the applicant will be required to resubmit an application and comply with all required procedures relating to admission to the practice of law in Arizona.

(b) Taking Oath of Admission. No applicant shall be admitted to the practice of law in Arizona unless he or she has taken the oath of admission to the practice of law in Arizona as prescribed by the Court, before a notary or other person authorized to administer oaths, and has paid any applicable fees. Any applicant who has been informed by the Court that he or she has been approved for admission shall be eligible to take the oath of admission on a form provided by the Court. The form shall be subscribed by the applicant and the person administering the oath and upon its filing with the clerk of the Court a Certificate of Admission shall be issued to the

applicant. Provided that all other requirements for admission have been satisfied, an applicant who wishes to be admitted in open court may do so on oral motion by a member of the State Bar of Arizona, and thereafter a Certificate of Admission shall be issued to the applicant. No applicant is entitled to practice law in Arizona until the Certificate of Admission has been issued.

(c) Retention and Confidentiality of Records of Applicants for Admission. The records of applicants for admission to the practice of law shall be maintained and may be destroyed in accordance with approved retention and disposition schedules pursuant to administrative order of the Court, pursuant to Rule 29, Rules of the Supreme Court . The records and the proceedings concerning an application for admission shall remain confidential, except as otherwise provided in these rules. Bar counsel shall be allowed access to the records of applicants for admission and the proceedings of the Committee concerning an application for admission in connection with the duties set forth in Rule 36 (a)(2)(C). In addition, the Committee on Character and Fitness and the Committee on Examinations, or the Committees' designated staff, may

1. disclose their respective records pertaining to an applicant to

A. the National Conference of Bar Examiners;

B. the admitting authority of any other state to which the applicant seeks admission;

C. an attorney discipline enforcement agency;

D. an agency authorized to investigate the qualifications of judicial candidates;

E. a law enforcement agency, upon subpoena or good cause shown; or

F. other court agencies, court committees or regulatory boards, for good cause shown;

2. publicly announce the names of the applicants who have successfully completed the examination;

3. report to the law school from which the applicant graduated the applicant's status as pass, fail, or withdrew from examination; and

4. disclose to an applicant as required by paragraphs (e) and (f) of this rule, evidence to be used at the hearing.

(d) Refund of Fees.

1. An applicant who submits an application for admission by Arizona uniform bar examination and who has paid the fees required by these rules and thereafter withdraws the application or fails to appear for the examination applied for, shall be entitled to a partial refund or credit of the fees paid, as established by the Court, provided the applicant notifies the Committee in writing no later than the filing deadline for that examination as set by the Court. No part of the fees paid to the National Conference of Bar Examiners is refundable.

Rule 37 (continued)

2. Applicants for admission on motion and applicants for admission based on transfer of uniform bar examination score shall not receive a refund of the application fee for any reason, including denial of admission, withdrawal of the application, or failure to pursue admission after application, regardless of the date the applicant notifies the Committee. Credit for the fees paid by an applicant who withdraws or fails to pursue admission after application will be applied to any application made by the applicant for two (2) years from the date of the original application.

(e) Immunity from Civil Suit.

1. The Court, the Committee on Character and Fitness, the Committee on Examinations, and the members, staff, employees, and agents thereof, are immune from all civil liability for conduct and communications occurring in the performance of their official duties relating to the examination, character and fitness determination, and licensing of persons seeking to be admitted to the practice of law.

2. Records, statements of opinion and other information regarding an applicant for admission communicated by any entity, including any person, firm, or institution, without malice, to the Court, the Committee on Character and Fitness, the Committee on Examinations, and the members, staff, employees, and agents thereof, are privileged, and civil suits predicated thereon may not be instituted.

Rule 38. Special Exceptions to Standard Examinations and Admission Process

(a) Admission Pro Hac Vice.

1. *Eligibility.* An attorney who is not a member of the State Bar of Arizona, but is currently a member in good standing of the bar of another state or eligible to practice before the highest court in any state, territory or insular possession of the United States (hereinafter called a nonresident attorney) and who is of good moral character and is familiar with the ethics, professionalism and practices of the legal profession in the State of Arizona, may appear as counsel pro hac vice in a particular case before any state or local court, board or administrative agency in the State of Arizona upon compliance with this rule. However, no person is eligible to appear as counsel pursuant to this rule if that person (a) is a resident of the State of Arizona, or (b) is regularly employed in the State of Arizona, or (c) is regularly engaged in substantial business, professional, or other activities in the State of Arizona.

2. *Association of Local Counsel.* No nonresident attorney may appear pro hac vice before any court, board or administrative agency of this state unless the nonresident attorney has associated in that cause an attorney who is a member in good standing of the State Bar of Arizona (hereinafter called local counsel). The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local

counsel associating with a nonresident attorney in a particular cause shall accept joint responsibility with the nonresident attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

3. *Procedure for Applying.* Appearance pro hac vice in a cause is subject to the discretion and approval of the court, board, or administrative agency where such cause is pending. A nonresident attorney desiring to appear pro hac vice under this rule shall comply with the procedures set forth herein for each matter where pro hac vice status is requested. For good cause shown, a court, board, or administrative agency may permit a nonresident attorney to appear pro hac vice on a temporary basis prior to the completion by the nonresident attorney of the application procedures set forth herein. At the time such temporary admission is granted, the court, board, or administrative agency shall specify a time period for the nonresident attorney to complete the application procedures, and any temporary pro hac vice admission shall be revoked in the event of subsequent failure by the nonresident attorney to so complete the application procedures.

A. *Verified Application to State Bar of Arizona.* In order to appear as counsel in any matter pending before a court, board, or administrative agency in the State of Arizona, a nonresident attorney shall file with the State Bar of Arizona an original and one copy of a verified application together with a certificate from the state bar or from the clerk of the highest admitting court of each state, territory or insular possession of the United States in which the nonresident attorney has been admitted to practice law certifying the nonresident attorney's date of admission to such jurisdiction and the current status of the nonresident attorney's membership or eligibility to practice therein and a non-refundable application fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such application is filed; provided that not more than one application fee may be required per nonresident attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the nonresident attorney; and further provided that the requirement of an application fee shall be waived to permit pro bono representation of an indigent client or clients. An attorney seeking a fee waiver under this provision shall include in the application a verification that all clients represented in the action are indigent and that no attorney fee shall be paid by the client. "Indigent" is defined as those individuals whose gross income is at or below 125% of the federal poverty guidelines, as calculated in conformity with the eligibility requirements for Legal Services Corporation grantees, currently codified at 45 C.F.R. Section 1611.

Fifteen percent of the non-refundable application fee paid pursuant to this section shall be deposited into a civil legal services fund to be distributed by the Arizona Foundation for Legal Services and Education entirely to approved legal services organizations, as that term is defined in subparagraph (f) of this rule.

B. *Notice of Receipt by State Bar of Complete Application.* Upon receipt of the verified application and fee from the nonresident attorney as described above, the State Bar of Arizona shall issue to local counsel a Notice of Receipt of Complete Application which states: (1) whether the nonresident attorney has previously made any application or motion

pursuant to this rule within the preceding three years; (2) the date of any such application or motion; and (3) whether the application or motion was granted or denied by the court or administrative agency. The State Bar of Arizona Notice shall include as exhibits: (1) the original verified application and (2) the original certificate(s) of good standing. Copies of verified applications, certificates of good standing and orders granting, denying or revoking applications to appear pro hac vice shall be retained by the State Bar of Arizona for three (3) years.

C. *Motion to Associate Counsel Pro Hac Vice.* Local counsel shall file a motion to associate counsel pro hac vice with the court, board, or administrative agency where the cause is pending, together with proof of service on all parties in accordance with Arizona Rules of Civil Procedure. The motion to associate counsel pro hac vice shall include as exhibits: (1) the original verified application; (2) the original certificates of good standing; and (3) the State Bar of Arizona Notice. The motion to associate counsel pro hac vice shall also be accompanied by a proposed order granting or denying the motion. A copy of each order granting or denying the motion as entered by the court, board, or administrative agency shall be mailed by local counsel to the State Bar of Arizona.

D. *Entry of Order.* The order granting or denying the motion to associate counsel pro hac vice shall be entered by the court, board, or administrative agency no later than 20 days (exclusive of weekends and holidays) after the filing of such motion. A nonresident attorney shall make no appearance in a cause until the court, board, or administrative agency where the cause is pending enters the order granting the motion to associate counsel pro hac vice. The order granting pro hac vice status shall be valid for a period of one year from the date of entry, and shall be renewed for subsequent one year periods upon compliance with renewal procedures as specified herein.

4. *Verified Application.* The verified application required by this rule shall be on a form approved by the Board of Governors of the State Bar of Arizona and available at the clerk of the court, board, or administrative agency where such cause is pending and shall state:

A. the title of the case or cause, court, board, or agency and docket number in which the nonresident attorney will be seeking to appear pro hac vice, and whether this case or cause is a related or consolidated matter for which the nonresident attorney has previously applied to appear pro hac vice;

B. the nonresident attorney's residence and office address;

C. the court(s) to which the nonresident attorney has been admitted to practice and the date(s) of such admission;

D. that the nonresident attorney is a member in good standing of such court(s);

E. that the nonresident attorney is not currently disbarred or suspended in any court;

F. whether the nonresident attorney is currently subject to any pending disciplinary proceeding by any court, agency or organization authorized to discipline attorneys at law, and if so pending, the application shall specify the jurisdiction, the nature of the matter under investigation and the name and address of the disciplinary authority investigating the matter;

G. whether the nonresident attorney has ever been disciplined by any court, agency, or organization authorized to discipline attorneys at law;

H. the court, board, or administrative agency, title of cause and docket number in which the nonresident attorney has filed an application to appear as counsel under this rule in this state in the preceding three years, the date of each application, and whether it was granted;

I. the name, address and telephone number of local counsel;

J. the name of each party in the cause and the name and address of counsel of record who is appearing for each party;

K. that the nonresident attorney certifies that he or she shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Arizona, as provided in Rule 46(b), Rules of the Supreme Court;

L. that the nonresident will review and comply with appropriate rules of procedure as required in the underlying cause; and

M. that the nonresident attorney understands and shall comply with the standards of professional conduct required of members of the State Bar of Arizona.

5. *Discretion.* The granting or denial of a motion to associate counsel pro hac vice pursuant to this rule by the court, board, or administrative agency is discretionary. The court, board, or administrative agency may revoke the authority of a nonresident attorney to make continued appearances pursuant to this rule. Absent special circumstances, repeated appearances by any person pursuant to this rule may be the cause for denial of the motion to associate counsel pro hac vice. Such special circumstances may include, but are not limited to, the following:

A. a showing that the cause involves a complex area of law in which the nonresident attorney possesses a special expertise, or

B. a lack of local counsel with expertise in the area of law involved in the cause.

6. *Transfer.* The nonresident attorney shall be deemed admitted in the event venue in such action is transferred to another county or court or is appealed; provided, however, that the court having jurisdiction over such transferred or appealed cause may revoke the authority of the nonresident attorney to appear pro hac vice.

7. *Continuing Duties to Advise of Changes in Status.* A nonresident attorney admitted pro hac vice shall have the continuing obligation during the period of such admission to promptly advise the State Bar of Arizona of a disposition made of pending charges or the institution of any new disciplinary proceedings or investigations. The State Bar of Arizona shall then advise any court, board, or administrative agency where the nonresident attorney has been admitted pro hac vice of any such information. A nonresident attorney shall promptly advise the State Bar of Arizona if permission to appear pro hac vice pursuant to this rule is revoked by any court, board, or administrative agency.

8. *Renewal of Application.* On or before each anniversary date of the filing of the verified application with the State Bar of Arizona, local counsel must certify to the State Bar of Arizona whether (a) the nonresident attorney continues to act as counsel in the cause; or (b) such cause has been adjudicated to a final conclusion or is otherwise concluded. Any nonresident attorney who continues to act as counsel in the cause shall remit to the State Bar of Arizona on or before each anniversary date a fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such renewal is sought, unless the nonresident attorney is exclusively engaged in pro bono representation of an indigent client or clients. No fee shall be paid under this section if the fee was waived under paragraph (a)(3)(A) of this rule, the client remains indigent, and no attorney fee shall be paid by the client.

Fifteen percent of the non-refundable application fee paid pursuant to this section shall be deposited into a civil legal services fund administered by the Arizona Foundation for Legal Services and Education, to be distributed to and used exclusively for approved legal services organizations, as that term is defined in subparagraph (f) of this rule.

9. *Failure to Renew.* Any nonresident attorney who continues to appear pro hac vice in a cause and fails to pay the renewal fees set forth in paragraph (a)(8) of this rule shall be suspended from appearance in any cause upon the expiration of a period of thirty days from the anniversary date. The executive director of the State Bar of Arizona shall notify the nonresident attorney and local counsel of the suspension and shall file a certified copy of the notice with the court, board or administrative agency where the cause is filed. The nonresident attorney may be reinstated upon the payment of fees set forth in paragraph (a)(8) of this rule and a $50 late penalty. Upon payment of all accrued fees and late penalty, the executive director shall reinstate the nonresident attorney and shall certify such reinstatement to the court, board, or administrative agency where the cause is filed.

10. *Annual Reporting.* The State Bar of Arizona shall prepare an annual report which shall list: (a) all applications filed pursuant to this rule during the preceding twelve months; (b) the names of all applicants; and (c) whether the application was granted or denied. The report shall be available for inspection at the offices of the State Bar of Arizona, and shall be provided to the Supreme Court.

11. *Disciplinary Jurisdiction of the State Bar of Arizona.* As provided in Rule 46(b), Rules of the Supreme Court, a nonresident attorney admitted pro hac vice pursuant to these rules shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the

State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar of Arizona.

(b) Foreign Legal Consultant.

1. *Definition.* A "foreign legal consultant" is a person who is admitted to practice and is in good standing as an attorney or counselor at law or the equivalent in a foreign country or political subdivision of a foreign country, and has been issued a certificate of registration as a foreign legal consultant.

2. *Requirement for Certificate of Registration.* To be issued a certificate of registration as a foreign legal consultant, an applicant must:

A. for a period of not less than five of the seven years immediately preceding the date of the application, have been admitted to practice and have been in good standing as an attorney or counselor at law or the equivalent in a foreign country or political subdivision of a foreign country; and have engaged either: (i) in the practice of law in such country or political subdivision; or (ii) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such country or political subdivision;

B. possess the good moral character necessary for a member of the state bar;

C. intend to practice as a registered foreign legal consultant in this state and to maintain an office in the state for such practice;

D. possess the necessary documentation evidencing compliance with the immigration laws of the United States;

E. have attained the age of twenty-one;

F. file with the Committee on Character and Fitness an application in the form supplied by the Committee. The application must be accompanied by required supporting documents and application fee. The applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court. The character report and related fee may be submitted separately from the application to practice as a registered foreign legal consultant.

3. *Documents Required in Support of Application.* The following must accompany every application:

A. an application fee as established by the supreme court;

Rule 38 (continued)

B. a complete set of the applicant's fingerprints (the Committee on Character and Fitness is authorized to receive criminal history information regarding any applicant for admission from any law enforcement agency in conjunction with the admissions process);

C. a certificate, with a duly authenticated English translation, if not in English, from the authority having jurisdiction over admission in the foreign country or political subdivision of the foreign country in which the applicant was admitted to practice, which shall be signed by a responsible official or one of the members of the executive body of such authority and which shall be accompanied by the official seal, if any, of such authority and which shall certify (a) the authority's jurisdiction in such matters, and (b) the applicant's admission to practice in such foreign country or political subdivision of such country, the date of such admission, and the applicant's good standing as an attorney or counselor at law or the equivalent thereof;

D. a certificate, with a duly authenticated English translation, if not in English, from the authority having jurisdiction over professional discipline in the foreign country or political subdivision of the foreign country in which the applicant was admitted to practice, which shall be signed by a responsible official or one of the members of the executive board of such authority, and which shall be accompanied by the official seal, if any, of such authority and which shall certify (a) the authority's jurisdiction in such matters, and (b) whether any charge or complaint has ever been filed against the applicant with such authority, and if so, the substance of each such charge or complaint and the adjudication or resolution thereof;

E. a letter of recommendation, with a duly authenticated English translation, if not in English, from one of the members of the executive body of the authority mentioned in paragraph (b)(3)(C) of this rule or from one of the judges of the highest law court or of a court of original jurisdiction in the foreign country or political subdivision of the foreign country;

The Committee on Character and Fitness and its agents may require such information or further documents from a foreign legal consultant applicant as it is authorized to require of any applicant for admission to the state bar and may make such investigations, conduct such hearings, and otherwise process said application as if made pursuant to the provisions of the rules governing application for admission by examination.

4. *Time for Processing Application.* The Committee on Character and Fitness may receive and act upon any such application at any time or in its discretion may require that such applications be received and processed by the Committee at the same time and in the same manner as applications for admission upon examination.

5. *Hardship Waiver.* Upon a showing that strict compliance with the provisions of paragraphs (b)(3)(C) or (D) of this rule would cause the applicant unnecessary hardship, or upon a showing of exceptional professional qualifications to practice as a foreign legal consultant, the Committee may in its discretion waive or vary the application of either or both of those provisions and permit the applicant to furnish other evidence in lieu thereof.

6. *Reciprocity.* In considering whether to issue a certificate of registration as a foreign legal consultant, the Committee may consider whether a member of the state bar would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission if (a) there is pending with the Committee a request from a member of the state bar to take this factor into account, (b) the member is actively seeking or has actively sought to establish such an office in that country, and (c) there is a serious question as to adequacy of the opportunity for a member of the state bar to establish such an office.

7. *Scope of practice.*

A. A person licensed to practice as a foreign legal consultant under this rule may render legal services in this state subject, however, to the limitations that he or she shall not:

i. appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state other than upon admission pro hac vice pursuant to Rule 38(a);

ii. prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States of America;

iii. prepare any will or trust instrument affecting the disposition on death of any property located in the United States of America and owned by a resident thereof;

iv. prepare any instrument relating to the administration of a decedent's estate in the United States of America;

v. prepare any instrument in respect to marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of a resident;

vi. render professional legal advice on the law of this state or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise), except on the basis of advice from a person duly qualified and entitled (otherwise than by virtue of having been licensed under this rule) to render professional legal advice in this state;

vii. in any way hold himself or herself out as a member of the state bar.

B. A person registered as a foreign legal consultant under this rule shall at all times use the title "legal consultant", which shall be used in conjunction with the name of the foreign country of his or her admission to practice, and shall not carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:

i. his or her own name;

ii. the name of his or her law firm;

iii. his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country.

8. *Rights and Obligations.* A foreign legal consultant registered under this rule shall not be a member of the state bar but shall be considered an affiliate of the state bar subject to the same conditions and requirements as apply to a member of the state bar under the Rules of the Supreme Court governing members of the state bar, insofar as conditions and requirements are consistent with the provisions of this rule, and shall:

A. have the right, in the same manner and to the same extent as members of the state bar, to:

i. employ one or more members of the state bar;

ii. be employed by one or more members of the state bar or by any partnership or professional corporation that includes members of the state bar or that maintains an office in this state; or

iii. be a partner in any partnership or shareholder in any professional corporation that includes members of the state bar or that maintains an office in this state; and

B. enjoy and be subject to all rights and obligations with respect to attorney-client privilege, work-product privilege, and other professional privileges in the same manner and to the same extent as members of the state bar.

9. *Disciplinary Provisions.* A person registered as a foreign legal consultant under this rule shall be subject to professional discipline in the same manner and to the same extent as members of the state bar.

10. *Course on Professionalism.* Within one year after receiving a certificate of registration, a foreign legal consultant shall complete the state bar course on professionalism, or an equivalent course on the principles of professionalism approved or licensed by the Board of Governors of the State Bar of Arizona for this purpose. The provisions of Rule 34(f)(2) regarding summary suspension and reinstatement shall apply.

(c) Full-Time Law School Faculty Members.

1. *Application; Examination by Committee on Examinations not Required.* Upon recommendation of the dean of a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association or, as to such dean, upon recommendation of the president of such university or school, a full-time faculty member of such law school may apply for admission to practice law in the State of Arizona as an active member of the bar without examination by the Committee on Examinations.

Rule 38 (continued)

2. *Requirements.* An applicant under this rule must be a graduate with a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of such applicant's graduation. Applicants shall be required to submit proof of their admission by examination to the bar of another state or the District of Columbia and shall pay the current applicable application and investigation fees. Each applicant must file an application with the Committee containing information relative to his or her educational and professional background and moral character.

3. *Investigation.* The Committee may require such information from any such applicant as it is authorized to require of any applicant not within the exception made by this rule and may make such investigations, conduct such hearings, and otherwise process said application as if made pursuant to the provisions of the foregoing rules governing application for admission by examination.

4. *Recommendation for Admission by Committee.* If after such investigation as the Committee may deem appropriate it concludes that such applicant possesses the moral qualities and the intellectual attainments required of all other applicants for admission to practice law in the State of Arizona, it shall recommend such applicant for admission to practice and, if said recommendation is accepted by the Court, said applicant shall be admitted to practice and be enrolled as a member of the state bar, and except for the limitations imposed by this subsection, shall have all privileges and rights enjoyed by any member of the State Bar of Arizona admitted pursuant to application and admission by examination. Applicants admitted under this rule shall be subject to all the duties and obligations of members under Rules 41 and 42. The Committee may receive and act upon any such application at any time or in its discretion may require that such applications be received and processed by the Committee at the same time and in the same manner as applications for admission upon examination.

5. *Limitations on Practice.* Faculty members who are admitted to the bar pursuant to this subsection and who subsequently terminate their full-time faculty status shall not retain active bar membership unless they pass the Arizona bar examination. Faculty members who are admitted to the bar under this subsection shall limit their practice hours in accordance with the limits imposed by each university and shall in no event engage in compensated practice as members of the state bar for more than an average of eight hours per week during each calendar year. The dean of each law school shall annually advise the executive director of the state bar that faculty members who have been admitted to the bar under this subsection have complied with the reporting requirements under university rules and the limits imposed by this subsection. For purposes of this rule, activities of clinical law professors in connection with supervision of a clinical law program as described in paragraph (d) of this rule shall not be considered as compensated practice.

(d) Clinical Law Professors and Law Students

1. *Purpose.* This rule is adopted to encourage law schools to provide clinical instruction of varying kinds and to facilitate volunteer opportunities for students in pro bono contexts.

Rule 38 (continued)

2. *Definitions.*

A. "Accredited law school" means a law school either provisionally or fully approved and accredited by the American Bar Association.

B. "Certified limited practice student" is a law student or a graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. "Dean" means the dean of the Accredited Law School where the student is enrolled (or was enrolled on graduation), or the dean's designee, who signed the application for limited practice certification.

D. "Designated attorney" is, exclusively in the case of government agencies, any deputy, assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.

E. "Period of supervision" means the dates for which the supervising attorney has declared, on the application for certification or recertification, he or she will be responsible for any work performed by the certified limited practice student under his or her supervision.

F. "Personal presence" means the supervising attorney or designated attorney is in the physical presence of the certified limited practice student.

G. "Rules" means Rule 38, Rules of the Supreme Court.

H. "Supervising attorney" is an attorney admitted to Arizona full or limited practice who agrees in writing to supervise the certified limited practice student pursuant to these rules and whose name appears on the application for certification or recertification.

I. "Volunteer legal services program" means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

3. *General Provisions.*

A. *Limited Bar Membership.* To the extent a professor or a student is engaged in practice of law under this rule, the professor or student shall, for the limited purpose of performing professional services as authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. *Nonapplicability of Attorney Discipline Rules to Terms of the Certification.* The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor or a limited practice student pursuant to this rule. Termination of certification shall be without

prejudice to the privilege of the professor or the student to make application for admission to practice law if the professor or the student is in other respects qualified for such admission.

C. *Effect of Certification on Application for Admission to Bar.* The certification of a clinical law professor or a limited practice student shall in no way be considered as an advantage or a disadvantage to the professor or student in an application for admission to the state bar.

D. *Privileged Communications.* The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising attorneys (and designated attorneys), and certified limited student practice students. All persons participating in any program of instruction or professional activity for which a student is certified under these rules are enjoined not to disclose privileged or confidential communications whether in the implementation of a course of instruction or otherwise.

4. *Clinical Law Professors.*

A. *Activities of Clinical Law Professors.* A clinical law professor not a member of the state bar but certified pursuant to this rule may appear as a lawyer, solely in connection with supervision of a clinical law program approved by the dean and faculty of a law school in Arizona either provisionally or fully approved and accredited by the American Bar Association, in any court or before any administrative tribunal in this state in any of the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. *Requirements and Limitations for Clinical Law School Professors.* In order to make an appearance as lawyer pursuant to this rule, the clinical law professor must:

i. be duly employed as a faculty member of a law school in Arizona either provisionally or fully approved and accredited by the American Bar Association for the purpose, *inter alia*, of instructing and supervising a clinical law program approved by the dean and faculty of such law school;

ii. be admitted by examination to the bar of another state or the District of Columbia;

iii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered; and

iv. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers.

Rule 38 (continued)

C. *Certification.* The certification shall be signed by the dean of the law school on the form proscribed by the clerk of this Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. *Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student.* It shall be the responsibility of the clinical law professor to ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program. In the case of a certified student who has graduated and participates in the program pending the taking of the bar examination, the clinical law professor shall, on a monthly basis, based on such reporting from the certified limited practice student and the supervising attorney as the law school shall require, confirm that the certified graduate has received and is receiving adequate attorney supervision and guidance.

E. *Withdrawal or Termination of Certification.*

i. The dean may withdraw a certification of a clinical law professor at any time by filing a notice to that effect, with or without stating the cause for withdrawal, with the clerk of this Court, who shall forthwith mail copies thereof to the clinical law professor and the State Bar of Arizona.

ii. The Court may terminate the certification of a clinical law professor at any time without cause and without notice or hearing by filing notice of the termination with the clerk of this Court and with the state bar.

5. *Practical Training of Law Students*

A. *Law Student Eligibility for Limited Practice Certification.* To be eligible to become a certified limited practice student, a law student applicant must:

i. have successfully completed legal studies amounting to at least three semesters, or the equivalent academic hour credits if the school or the student is on some basis other than a semester, at an accredited law school, or have graduated from an accredited law school, subject to the time limitations set forth in these rules;

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered, but this shall not prevent a supervising lawyer, legal aid bureau, law school, public defender agency, or the state from paying compensation to the eligible law student, nor shall it prevent any such lawyer or agency from making such charges for its services as it may otherwise properly require;

iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct and the rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the accredited law school where the student is enrolled (or was enrolled on graduation), or by the dean's designee, as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending, academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. *Application for Limited Practice Certification.*

i. All applications for student limited practice certification or requests to change or add a supervising attorney or extend the period of certification pursuant to these rules must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated appropriate nonrefundable processing fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.

ii. The application for certification shall require the signature of the applicant, the dean, associate dean, or assistant dean of the accredited law school in which the applicant is enrolled, and the signature of the supervising attorney.

iii. The applicant shall attest that he or she meets all of the requirements of the rules; agrees to and shall immediately notify the clerk of the Court in the event he or she no longer meets the requirements the rules; and, that he or she has read, is familiar with and will abide by the Rules of Professional Conduct of the State of Arizona and these rules.

iv. The dean, associate dean, or assistant dean of the accredited law school in which the applicant is enrolled shall attest that the applicant meets the requirements of these rules; that he or she shall immediately notify the clerk of the Court in the event that the certified limited practice student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not qualified by ability, training, or character to participate in the activities permitted by these rules.

v. The supervising attorney shall specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read, is familiar with, will abide by, and will assume responsibility under the requirements of these rules;

C. *Permitted Activities and Requirements of Limited Practice Certification; Physical Presence of Supervising Attorney.*

i. *Court and Administrative Tribunal Appearances.* A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the student is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing

approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the certified limited practice student shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A certified limited practice student may appear in the following matters:

a. *Civil Matters.* In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

b. *Criminal Matters on Behalf of the State.* In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be present except when such appearance is in justice, municipal, or magistrate courts.

c. *Felony Criminal Defense Matters.* In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

d. *Misdemeanor Criminal Defense Matters.* In any misdemeanor criminal defense matter in justice, municipal, and magistrates courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.

e. *Appellate Oral Argument.* A certified limited practice student may participate in oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only in the presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.

Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct.

ii. *Other Client Representation Activities.* Under the general supervision of the supervising attorney (or designated attorney), but outside his or her personal presence, a certified limited practice student may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney (or designated attorney);

b. prepare briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);

c. provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court (if there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);

d. render legal advice and perform other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising attorney (or designated attorney).

iii. *Other Non-Representation Activities.* A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the state bar, subject to the approval by the supervising attorney (or designated attorney). In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the student's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. *Use of the Title "Certified Limited Practice Student."*

i. In connection with activities performed pursuant to these rules, a certified student may use the title "Certified Limited Practice Student" only and may not use the title in connection with activities not performed pursuant to these rules.

ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the

name of the supervising attorney; be signed by the supervising attorney; and otherwise comply with these rules.

iii. A certified limited practice student may not and shall not in any way hold himself or herself out as a regularly admitted or active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive or misleading.

v. Nothing contained in these rules shall affect the right of any person who is not admitted to practice law to do anything that person might lawfully do prior to the adoption of this rule.

E. *Requirements and Duties of the Supervising Attorney.* The supervising attorney shall:

i. be an active member of the state bar under these rules, and, before supervising a certified limited practice student shall have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;

ii. supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed full-time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than, fifty (50) certified students;

iii. assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

iv. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper practical training of the certified limited practice student and the protection of the client;

v. read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified limited practice student prior to the filing thereof, and read and approve any documents which shall be prepared by the certified limited practice student for execution by any person (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the supervising attorney shall still provide general supervision);

vi. provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide general supervision); and

vii. in the case of a certified student who is participating in the clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.

viii. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease prior to the date indicated on a notice of certification.

F. *Duration of Certification.* Certification of a certified limited practice student shall commence on the date indicated on a notice of certification and shall remain in effect for the period specified on the notice of certification unless sooner terminated pursuant to the earliest of the following occurrences:

i. *Termination by the Student.* The certified limited practice student may request termination of the certification in writing or notify the clerk of the Court that he or she no longer meets the requirements of this rule, and in such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

ii. Termination by the Supervising Attorney. The supervising attorney may notify the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease prior to the date specified in the notice of certification. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean and the state bar, and the dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.

iii. *Termination by the Dean.* A certification of student limited practice may be terminated by the dean any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

iv. *Failure to Take or Pass the Bar Examination.* A certification of student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible.

v. *Termination by the Arizona Supreme Court.* A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice

student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

(e) Authorization to Practice Law for Attorneys Volunteering with Approved Legal Services Organizations.

1. *Purpose.* Individuals admitted to the practice of law in Arizona have a responsibility to provide competent legal services for all persons, including those unable to pay for such services. As one means of meeting these legal needs, an attorney who is or was admitted to practice law for at least five (5) years in the courts of any state, district, or territory of the United States (other than Arizona) who volunteers to provide civil legal assistance to individuals who are unable to pay for such services is allowed to do so, under limited circumstances, under this rule. An attorney may be admitted to practice for the limited purpose of providing such assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule.

2. *Definitions.*

A. The "active practice of law" means that an attorney has been engaged in the practice of law, which includes, but is not limited to, private practice, house counsel, public employment, or academic employment.

B. A "Rule 38(e) attorney" is any person who is or was admitted to practice in the courts of any state, district or territory of the United States of America (other than Arizona), and

i. has been engaged in the active practice of law for at least five years before applying to participate in the volunteer lawyer program;

ii. has been a member in good standing of the entity governing the practice of law of any other state, territory, or the District of Columbia and has not been disciplined for professional misconduct by the bar or courts of any jurisdiction within the past fifteen years;

iii. agrees to abide by the Rules of Professional Conduct and submit to the jurisdiction of the Supreme Court of Arizona for disciplinary purposes;

iv. neither asks for nor receives compensation of any kind for the legal services to be rendered hereunder; and

v. is certified under paragraph (e)(3) of this rule.

C. An "approved legal services organization" for the purposes of this rule is a non-profit legal services organization that has as one of its primary purposes the provision of legal

assistance to indigents, free of charge, in civil matters. A legal services organization must be approved as such by the Supreme Court of Arizona. The organization shall file a petition with the clerk of the Court explaining:

i. the structure of the organization and whether it accepts funds from its clients;

ii. the major sources of funds used by the organization;

iii. the criteria used to determine potential clients' eligibility for services performed by the organization;

iv. the types of services performed by the organization;

v. the names of all members of the State Bar of Arizona who are employed by the organization or who regularly perform legal work for the organization; and

vi. the existence and extent of malpractice insurance that will cover the Rule 38(e) attorney.

3. *Certification.* An attorney who seeks authorization to practice law under this rule shall file with the clerk of the Supreme Court of Arizona an application including:

A. a certificate from the highest court or agency in the state, territory, or district in which the applicant is presently licensed to practice law documenting that the applicant has fulfilled the requirements of active bar members for at least five years preceding the date of the application, and that the applicant has not been disciplined for professional misconduct by the bar or highest court of the state, territory or district during the last 15 years;

B. A statement signed by an authorized representative of the approved legal services organization that the applicant is an unpaid volunteer associated with the organization; and

C. a sworn statement signed by the applicant that he or she:

i. has read and is familiar with the Rules of the Supreme Court and the applicable statutes of the State of Arizona relative to the conduct of lawyers, and will abide by the provisions thereof;

ii. submits to the jurisdiction of the Supreme Court of Arizona for disciplinary purposes, as defined by the Rules of the Supreme Court; and

iii. has not been disciplined by the bar or courts of any jurisdiction during the last fifteen years.

Rule 38 (continued)

The applicant shall send a copy of the application to the State Bar of Arizona, which shall file any objection to such application with the clerk of the Supreme Court within ten (10) days after the date of receipt of such application. An attorney is not allowed to practice law under this rule until the applicant has been authorized to do so by order of the Supreme Court of Arizona. The clerk of the Supreme Court shall send a copy of the order authorizing the practice of law to the State Bar of Arizona.

4. *Mandatory Continuing Legal Education.* Rule 38(e) attorneys shall be exempt from the requirements of Rule 45, Mandatory Continuing Legal Education.

5. *Pro Bono Requirement.* As provided in paragraph (e)(2)(B)(iv) of this rule, no attorney who practices law under the authority of this rule may receive compensation from the approved legal services organization with which the attorney is associated, from the attorney's client, or through a contingent fee agreement. This prohibition shall not prevent the attorney from seeking legal fees and costs from the opposing party, so long as all fees obtained are received by the client or donated to a qualified legal services program with the client's consent. In addition, an approved legal service organization or a client may reimburse any attorney practicing under this rule for actual expenses incurred while rendering services hereunder.

6. *Expiration of Authorization.* Authorization to practice law under this section shall expire if the applicant ceases to be associated as an unpaid volunteer with the organization. If the applicant ceases to be associated as an unpaid volunteer with the organization, an authorized representative of the organization shall, within ten (10) days of the date that association ceased, file a notification of the cessation with the clerk of the Supreme Court of Arizona and the State Bar of Arizona, specifying the date the association ceased.

7. *Discipline.* In addition to any appropriate proceedings and discipline which may be imposed by the Court under these rules, the Rule 38(e) attorney shall be subject to the following disciplinary measures:

A. civil contempt imposed by the presiding judge or hearing officer for failure to abide by a tribunal's orders in any matter in which the Rule 38(e) attorney has participated; and

B. withdrawal of the certification hereunder, with or without cause, by either the Court or the approved legal assistance organization.

(f) Authorization to Practice Law for Attorneys Working for Approved Legal Services Organization. An attorney who has been admitted to practice law in any other jurisdiction for at least two years and who is employed by an approved legal services organization in this State that provides legal assistance to indigents in civil matters, free of charge, may be admitted to practice before all courts of this State, subject to the following:

1. *Approval of Legal Services Organizations.* An "approved legal services organization" for the purposes of this rule is a non-profit legal services organization that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters. A legal services organization must be approved as such by the Supreme Court of Arizona. To

obtain approval, the organization shall file a petition with the clerk of the Court containing the following:

A. a statement that it does not accept fees for services rendered from its clients;

B. an explanation of the structure of the organization;

C. disclosure of the major sources of funds used by the organization;

D. the criteria used to determine potential clients' eligibility for legal and nonlegal services performed by the organization;

E. a description of the types of services performed by the organization;

F. the names of all members of the State Bar of Arizona who are employed by the organization or who regularly perform legal work for the organization; and

G. the existence and extent of malpractice insurance that will cover attorneys authorized to practice under this rule.

A copy of the petition for approval shall be sent by the organization to the Chief Bar Counsel of the State Bar of Arizona, who shall file any comment the state bar desires to file respecting such petition with the clerk of the Court within ten days after the date of receipt of such petition. A legal services organization is not approved until an order confirming such approval is entered by the Court. A copy of the order approving the legal services organization under this rule shall be sent by the clerk of the Court to the Chief Bar Counsel of the State Bar of Arizona.

2. *Application and Authorization.* An attorney who seeks authorization to practice law under this rule shall file with the clerk of the Supreme Court of Arizona an application including:

A. a certificate from the highest court or agency in the state, territory or district in which the applicant is presently licensed to practice law documenting that the applicant has fulfilled the requirements of active bar membership for at least the two years preceding the date of the application, and that the applicant has not been disciplined for professional misconduct by the bar or highest court of the state, territory or district for the past five years, or during the time of the applicant's licensure, whichever is greater;

B. a statement signed by an authorized representative of the approved legal services organization that the applicant is employed by the organization; and

C. a sworn statement signed by the applicant that he or she:

i. has read and is familiar with the Rules of the Supreme Court and any applicable statutes of the State of Arizona relative to the conduct of lawyers, and will abide by the provisions thereof;

ii. submits to the jurisdiction of the Court for disciplinary purposes, as defined by the Rules of the Supreme Court; and

iii. has not been disciplined by the bar or courts of any jurisdiction within the past five years.

A copy of the application shall be sent by the attorney to the Chief Bar Counsel of the State Bar of Arizona, who shall file any objection to such application with the clerk of the Court within ten days after the date of receipt of such application. An attorney is not allowed to practice law under this rule until the applicant has been authorized to do so by order of the Court. A copy of the order authorizing the practice of law shall be sent by the clerk of the Court to the Chief Bar Counsel of the State Bar of Arizona.

3. *Expiration of Authorization.* Authorization to practice law under this section shall remain in effect from the date of the order authorizing the applicant to practice law in the State of Arizona until such time as the applicant no longer works for an approved legal services organization. If the applicant ceases employment with the approved legal services organization, an authorized representative of the organization shall, within ten (10) days of the date of termination of employment, file a notification of the termination with the clerk of the Court and the Chief Bar Counsel of the State Bar of Arizona, specifying the date of termination of employment. If the applicant leaves the approved legal services organization in order to work for another approved legal services organization, a notification of new employment shall be filed with the clerk of the Court and the State Bar of Arizona.

4. *Limitation of Activities.* An attorney authorized to practice under this rule shall not perform any legal services within the State of Arizona except for clients of the approved legal services organization by which the attorney is employed. The attorney shall not accept any compensation for such services except such salary as may be provided to him or her by the organization. Part-time employment is permitted under this rule. A Rule 38(f) attorney may not provide services for compensation other than compensation from the legal services organization with which the attorney is employed.

5. *Supervision.* An attorney authorized to practice under this section who has been practicing in Arizona for less than two years shall be supervised by an attorney who is an active member of the State Bar of Arizona, who is employed full time by the approved legal services organization for whom the applicant attorney works, and who will act as a supervisory lawyer pursuant to Rule 42 of the Rules of the Supreme Court of Arizona, ER 5.1.

6. *Continuing Legal Education.* An attorney authorized to practice under this paragraph (f) must comply with the Mandatory Continuing Legal Education (MCLE) requirements of Rule 45.

7. *Discipline.* In addition to any appropriate proceedings and discipline that may be imposed by the Supreme Court of Arizona under Rule 31, an attorney practicing under this paragraph (f) shall be subject to the following disciplinary measures:

A. The presiding judge or hearing officer for any matter in which the attorney practicing under this paragraph (f) has participated may hold the attorney in civil contempt for any failure to abide by such tribunal's orders; and

B. The Supreme Court of Arizona or the approved legal services organization may, at any time, with or without cause, withdraw certification hereunder.

(g) Authorization to Practice Law for Attorneys Employed by Indigent Defense Offices. An attorney who has been admitted to the active practice of law in any other jurisdiction for at least two years, and who is employed full time by a state or county funded indigent defense office located in a county with a population less than 500,000, may be admitted to practice before all courts of this State, for the limited purpose of providing representation to appointed clients of such office, as provided in this paragraph (h).

1. *Definitions.*

A. The "active practice of law" means that an attorney has been engaged in the practice of law, which includes, but is not limited to, private practice, house counsel, public employment, or academic employment.

B. A "funded indigent defense office," as used in this rule, means a governmental department, organization or other entity formed under the authority of A.R.S.§ 11-581 et seq. The office also must employ at least one Arizona attorney not admitted pursuant to any provision of this rule and be located in a county with a population less than 500,000. A funded indigent defense office must be approved as such by the Supreme Court of Arizona.

2. *Approval of Funded Indigent Defense Office.*

A. To obtain approval of the Supreme Court the office shall file a petition with the clerk of the Court containing the following:

i. a description of the structure of the organization, including a certification that the organization maintains a supervisory structure and ratio in line with accepted defense standards, the source of which shall be identified;

ii. a copy of the last annual report prepared pursuant to A.R.S. § 11-584(A)(3), and an affirmation that, during any time in which the office has an attorney employed under this rule, the office will file a copy of the annual report with the Supreme Court at the same time as it files the report with the entities designated in A.R.S. § 11-584(A)(3);

Rule 38 (continued)

iii. a certification that the office complies with ethical workload limits, American Bar Association Formal Ethics Opinion 06-441 (2006), American Council of Chief Defenders/National Legal Aid and Defender Association Ethics Opinion 03-01 (April 2003), and Arizona Bar Ethics Opinion 90-10, such certification to include an affirmation that the office has a means of reviewing caseload/workload of assigned attorneys;

iv. a description of the source of major funds used by the office;

v. the type of representation the office provides under A.R.S. § 11-584(A);

vi. the names of all members of the State Bar of Arizona who are employed by the office or who regularly perform legal work for the office; and

vii. a certification that all attorneys employed by the office under this rule receive pay and benefits commensurate with other regularly licensed attorneys in the office.

A copy of the petition for approval shall be sent by the office to the Chief Bar Counsel of the State Bar of Arizona, who shall file any comment the state bar desires to file respecting such petition with the clerk of the Court within ten days after the date of receipt of such petition. A funded indigent defense office is not approved until an order confirming such approval is entered by the Court. A copy of the order approving the funded indigent defense office under this rule shall be sent by the clerk of the Court to the Chief Bar Counsel of the State Bar of Arizona.

3. *Application and Authorization.* An attorney who seeks authorization to practice law under this rule shall file with the clerk of the Supreme Court of Arizona an application including:

A. a certificate from the highest court or agency in the state, territory or district in which the applicant is presently licensed to practice law documenting that the applicant has fulfilled the requirements of active bar membership for at least the two years preceding the date of the application, and that the applicant has not been disciplined for professional misconduct by the bar or highest court of the state, territory or district for the past five years, or during the time of the applicant's licensure, whichever is greater;

B. a statement signed by an authorized representative of the approved funded indigent defense office that the applicant is employed by the organization; and

C. a sworn statement signed by the applicant that he or she:

i. has read and is familiar with the Rules of the Supreme Court and any applicable statutes of the State of Arizona relative to the conduct of lawyers, and will abide by the provisions thereof;

ii. submits to the jurisdiction of the Court for disciplinary purposes, as defined by the Rules of the Supreme Court; and

iii. has not been disciplined by the bar or courts of any jurisdiction within the past five years, or during the time of the applicant's licensure, whichever is greater.

The applicant shall send a copy of the application to the State Bar of Arizona, which shall file any objection to such application with the clerk of the Supreme Court within ten (10) days after the date of receipt of such application. An attorney is not allowed to practice law under this rule until the applicant has been authorized to do so by order of the Supreme Court of Arizona. The clerk of the Supreme Court shall send a copy of the order authorizing the practice of law to the State Bar of Arizona.

4. *Mandatory Continuing Legal Education.* An attorney authorized to practice under this paragraph (g) must comply with the Mandatory Continuing Legal Education (MCLE) requirements of Rule 45.

5. *Expiration of Authorization.* Authorization to practice law under this section shall remain in effect from the date of the order authorizing the applicant to practice law in the State of Arizona until (A) the applicant no longer works for an approved funded indigent defense office; (B) the applicant is admitted to the practice of law in Arizona pursuant to Rules of the Supreme Court 33 through 37; or (C) two years from the date of the order authorizing the applicant to practice law under this rule, whichever comes first. If the applicant ceases employment with the funded indigent defense office, an authorized representative of the office shall, within ten (10) days of the date of termination of employment, file a notification of the termination with the clerk of the Court and the Chief Bar Counsel of the State Bar of Arizona, specifying the date of termination of employment. If the applicant leaves the approved funded indigent defense office in order to work for another approved funded indigent defense office, a notification of new employment shall be filed with the clerk of the Court and the State Bar of Arizona. In the event of an applicant transferring from one approved funded indigent defense office to another, the time limits for expiration of licensure under this rule shall run from the date of the original order of admission. No applicant may be admitted more than once pursuant to this rule.

6. *Discipline.* In addition to any appropriate proceedings and discipline that may be imposed by the Court under these rules, the Rule 38(g) attorney shall be subject to the following disciplinary measures:

A. civil contempt imposed by the presiding judge or hearing officer for failure to abide by a tribunal's orders in any matter in which the Rule 38(g) attorney has participated; and

B. withdrawal of the certification hereunder, with or without cause, by either the Supreme Court, or the funded indigent defense office.

7. *Limitation of Activities.* An attorney authorized to practice under this rule shall not perform any legal services within the State of Arizona except for clients of the approved funded indigent defense office by which the attorney is employed. The attorney shall not accept any compensation for such services except such salary as may be provided to him or her by the office. Part-time employment is not permitted under this rule.

Rule 38 (continued)

8. *Supervision.* An attorney authorized to practice under this section who has been practicing in Arizona for less than two years shall be supervised by an attorney who is an active member of the State Bar of Arizona, who is employed full time by the approved funded indigent defense office for whom the applicant attorney works, and who will act as a supervisory lawyer pursuant to Rule 42 of the Rules of the Supreme Court of Arizona, ER 5.1.

(h) In-house Counsel

1. As used in this rule, "in-house counsel" shall refer to an attorney who is employed within the State of Arizona as in-house counsel or a related position for a for-profit or a non-profit corporation, association, or other organizational entity, which can include its parents, subsidiaries and/or affiliates, the business of which is lawful and is other than the practice of law or the provision of legal services.

2. A lawyer who is not a member of the State Bar of Arizona, but who holds a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association and is currently a member in good standing of the bar of another state or the District of Columbia, or eligible to practice before the highest court in any state, territory or insular possession of the United States, and who is employed within the State of Arizona as in-house counsel, as hereinabove defined, may apply for an Arizona Certificate of Registration of In-House Counsel ("Registration Certificate"). A lawyer employed as in-house counsel who is admitted to practice in a jurisdiction outside of the United States, in accordance with the standards and requirements generally applicable to the practice of law in that jurisdiction, may also apply for a Registration Certificate.

3. An applicant for a Registration Certificate shall:

A. file with the State Bar of Arizona its form of verified application for an Arizona Certificate of Registration of In-House Counsel;

B. furnish to the State Bar of Arizona a certificate from the state bar or from the clerk of the highest admitting court of each state, territory, or insular possession of the United States, or foreign jurisdiction, in which the applicant has been admitted to practice law certifying the current status of the applicant's membership or eligibility to practice therein;

C. certify that the applicant has read and is familiar with the Arizona Rules of Professional Conduct; and

D. pay an application fee in an amount equal to seventy-five percent (75%) of the current dues paid by active members of the State Bar of Arizona for the calendar year in which such application is filed.

4. An attorney who is employed by an eligible organization as in-house counsel on the effective date of this rule shall apply for a Registration Certificate within one hundred and

eighty (180) days of that effective date. From and after the effective date of this rule, any attorney who commences employment by an eligible organization as in-house counsel shall apply for a Registration Certificate within ninety (90) days of the date of commencement of employment.

5. On or before February 1 of each year, in-house counsel registered pursuant to the provisions of this rule, who continues to be employed as in-house counsel within the State of Arizona, shall renew the Registration Certificate, in the manner prescribed by the Board of Governors of the State Bar of Arizona for that purpose, and pay a renewal fee in an amount equal to seventy-five percent (75%) of the current dues paid by active members of the State Bar of Arizona for that calendar year.

6. Upon a determination by the State Bar of Arizona that the applicant has complied with the requirements of subpart (3) of this rule, the State Bar shall issue to the applicant a Registration Certificate. The State Bar shall promptly notify any applicant if it determines that an application fails to comply with the requirements of subpart (3) of this rule, and the applicant shall have thirty (30) days from the date of such notice in which to cure any deficiency. If the applicant fails to cure such deficiency within that thirty (30) day period, the application shall be deemed denied.

7. Each lawyer issued a Registration Certificate shall report to the State Bar of Arizona, within thirty (30) days, any change in bar membership status in any jurisdiction of the United States or in any foreign jurisdiction where the applicant has been admitted to the practice of law, or the imposition of any disciplinary sanction by any federal or state court or agency before which the applicant has been admitted to practice, or in any state in which the lawyer has rendered legal services while temporarily authorized under any rule or by admission *pro hac vice.*

8. If there is a change in circumstances, and an attorney holding a current Registration Certificate becomes ineligible for such Certificate, the attorney shall notify the State Bar of Arizona of such change in writing within thirty (30) days. An attorney registered pursuant to this rule who has become employed by a different eligible entity, but continues to meet all the requirements of this rule, may apply for the issuance of an amended Registration Certificate to reflect that change.

9. Except as provided in this rule, the holder of a valid and current Registration Certificate shall be entitled to the benefits and responsibilities of active members of the State Bar of Arizona, and shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar. A Registration Certificate shall not authorize the registrant to provide legal services to any person or entity other than the one for which the registrant serves as in-house counsel, or its parents, subsidiaries or affiliates, or to engage in activities for which admission pro hac vice is required under Rule 38(a) of these rules. A lawyer that has been issued a Registration Certificate under this rule shall satisfy the continuing legal education requirements, if any, of at least one of the other state(s) or jurisdiction(s) in which that lawyer

is admitted to practice. If not subject to mandatory continuing legal education requirement in the other state(s) or jurisdiction(s), the registrant shall comply with Arizona's continuing legal education requirements. On or before September 15 of each calendar year, every registered in-house counsel shall file an affidavit demonstrating full compliance with this rule.

10. Notwithstanding the provisions of subpart (9) of this rule, the holder of a Registration Certificate may participate in the provision of legal services to individuals unable to pay for such services under the circumstances contemplated by, and in accordance with the requirements of, Rule 38(e) of these rules. A lawyer that has been issued a Registration Certificate under this rule may also secure admission *pro hac vice* in Arizona by complying with the requirements of Rule 38(a) of these rules.

11. A lawyer's authority to practice as in-house counsel under a Registration Certificate issued pursuant to this rule shall be suspended when the lawyer is suspended or disbarred for disciplinary reasons in any jurisdiction of the United States, or by any federal court or agency, or by any foreign nation before which that lawyer has been admitted to practice.

12. A lawyer serving as in-house counsel in Arizona who fails to register pursuant to the provisions of this rule shall be ineligible for admission *pro hac vice* in Arizona, and may be referred by the State Bar of Arizona to the Bar admission and/or disciplinary regulatory authority in any jurisdiction in which that lawyer has been admitted to practice of law.

13. An applicant may petition the Board of Governors for a waiver of any of the requirements for registration under this rule.

(i) Military Spouse Temporary Admission.

1. *Requirements.* An applicant who meets the requirements of (A) through (N) of this paragraph (i)(1) ("Applicant") may, upon motion, be admitted to the temporary practice of law in this jurisdiction. The Applicant shall:

A. have been admitted by bar examination to practice law in another jurisdiction in the United States or territory;

B. hold a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of graduation;

C. submit evidence of achieving the passing score established in this jurisdiction for the Multistate Professional Responsibility Examination;

D. establish that the Applicant is currently an active member in good standing in at least one jurisdiction where admitted, and establish that the Applicant is a member in good standing in all jurisdictions where admitted;

E. establish that the Applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

Rule 38 (continued)

F. establish that the Applicant possesses the character and fitness to practice law in this jurisdiction;

G. submit evidence that the Applicant has successfully completed the course on Arizona law described in Rule 34(j);

H. submit evidence that the Applicant is a dependent spouse of a service member of the United States Uniformed Services as defined by the Department of Defense;

I. submit evidence that the service member is on full time, active duty pursuant to military orders in the State of Arizona;

J. submit evidence that the Applicant is residing in Arizona due to the service member's full time, active duty pursuant to military orders in this state;

K. submit character investigation information, in a manner established by the Court, including all required supporting documents;

L. not have failed the Arizona bar examination or failed to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction within five years of the date of filing an application under this rule;

M. not have been previously denied admission to the practice of law in Arizona;

N. agree to advise all clients, prior to providing representation or services, that the attorney is temporarily admitted under the military spouse exception.

2. *Duration and Renewal.*

A. A temporary admission will be valid for one year from the date of issuance, unless terminated earlier pursuant to paragraph (5).

B. An attorney admitted under this rule may annually renew a temporary admission upon:

i. filing a written request for renewal;

ii. paying a $300 application fee.

3. *Continuing Legal Education.* No later than six months following the attorney's temporary admission, the attorney shall certify completion of at least fifteen hours of continuing legal education on Arizona practice, procedure, and ethics. The attorney shall also certify completion of at least fifteen (15) hours of such continuing legal education during each year for which a temporary admission is renewed.

Rule 38 (continued)

4. *Association of Local Counsel.*

A. No attorney temporarily admitted under this rule may appear before any court, board, or administrative agency of this state unless the attorney has associated in that cause an attorney who is a member in good standing of the State Bar of Arizona (hereinafter called local counsel). The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with an attorney temporarily admitted under this rule in a particular cause shall accept joint responsibility with that attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

B. If the attorney temporarily admitted under this rule has not engaged in the active practice of law for at least five years cumulatively, the attorney shall be supervised by local counsel as defined above, who will be responsible to the court, the bar, the Supreme Court, and the client for all services the temporarily admitted attorney provided pursuant to this rule.

5. *Termination.*

A. A temporary admission shall terminate, and an attorney shall cease the practice of law in Arizona pursuant to that admission, unless otherwise authorized by these rules, 30 days after any of the following events:

i. the service member's separation or retirement from the United States Uniformed Services;

ii. the service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the Department of Defense does not authorize dependents to accompany the service member, in which case the temporary attorney may continue to practice law in Arizona as provided in this rule;

iii. the attorney's permanent relocation outside the state of Arizona for reasons other than the service member's relocation;

iv. the attorney's ceasing to be a dependent as defined by the Department of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Department of Homeland Security;

v. the attorney's failure to meet the annual licensing requirements for an active member of the State Bar of Arizona;

vi. the attorney's request;

vii. the attorney's admission to practice law in Arizona under any other admissions rule;

viii. the attorney's failure to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction;

ix. the attorney's denial of admission to the practice of law in Arizona for violating ethical rules; or

x. notice by the Supreme Court at any time, provided that the Clerk of the Supreme Court shall mail a copy of the notice of termination to the attorney and associated local counsel.

B. An attorney whose temporary admission is terminated shall provide written notice to the State Bar of Arizona within thirty (30) days of the terminating event.

C. At least sixty (60) days before termination of the temporary admission, or as soon as possible under the circumstances, the attorney shall:

i. file in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and

ii. provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.

6. *Benefits and Responsibilities of Temporary Admission.* An attorney temporarily admitted under this rule shall be entitled to the benefits and responsibilities of active members of the State Bar of Arizona, and shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the state bar.

7. *Record.* The State Bar of Arizona shall maintain a current record of all attorneys temporarily admitted under this provision and shall promptly provide such record upon request.