



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

As Amended

Effective January 1, 2011

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

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 two methods: (1) admission by examination or (2) admission on motion.

(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 at the time of the examination will be over the age of twenty-one years;

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.

2. 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 examinee's admission to the practice of law no later than the time the results of the 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 examination applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court. For examination applicants only, the character report and related fee may be submitted separately from the application for admission.

2. Applicants for admission on motion shall submit character report materials together with the application.

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

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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;
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 or that the applicant resigned in good standing;
3. for examination applicants, 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) Examination Application Filing Schedule; Fees

1. On the basis of an application for admission by examination properly and timely filed, with all required supporting documents and fees, the applicant will be certified to sit for the bar examination.
2. The application for admission and all of the documents required to be submitted by the 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 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 examination will be accepted after the filing deadline as established by the Court.

3. When an application to take the Arizona bar examination is properly filed with required supporting documents, the applicant shall be promptly notified that the application is in order and

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that the applicant is certified to sit for the bar examination, specifying the time and place of such examination.

(f) Admission on Motion Application Filing; Fees. Any applicant seeking admission on motion to the practice of law in Arizona must meet the requirements of Rule 38(h) 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
2. pay the application fee as established by the Court.

(g) Deficiency in Application and Supporting Documents. If the Committee on Character and Fitness 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.

(h) 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.

(i) 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.

(j) 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.

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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. Two examinations will be held each year, one to begin in February and one to begin in July and at such locations as the Committee on Examinations, in its discretion, deems appropriate. Applicants who have been granted permission to take the examination will be advised of the date and place not less than two weeks before the examination.

(b) Examination Subjects; Grading.

1. Essay examination questions at each examination will be upon some, but not necessarily all, of the following subject matter areas: business associations; conflict of laws; contracts; torts; criminal law; constitutional aspects of criminal procedure; trusts; wills; professional responsibilities; civil procedure; constitutional law; evidence; real property; Uniform Commercial Code; family law; and community property. In addition to those subjects listed above, 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 Multistate Bar Examination, Multistate Essay Examination, or Multistate Performance Test. Questions will be unlabeled and not necessarily limited to one subject matter.

2. The Committee on Examinations may utilize the Multistate Bar Examination, Multistate Essay Examination and Multistate Performance Test sponsored by the National Conference of Bar Examiners and may utilize such grading or scoring system as the Committee, in its discretion, deems appropriate.

3. An applicant will be deemed to have satisfied the requirements of the Arizona bar examination if the applicant, during the examination session, achieves a score equal to or greater than the minimum acceptable score established by the Committee for such administration, under conditions consistent with the practices and procedures of the Committee on Examinations and the National Conference of Bar Examiners. Results of the bar examination will be published and mailed at such dates and times as the Committee deems appropriate.

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;

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

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

5. Testing accommodations will be provided for applicants 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. Applicants 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 examination in accordance with filing deadlines as set by the Court.

6. The Committee on Examinations will file with the Court thirty (30) days before each examination the formula upon which the Multistate Bar Examination results will be applied with the other portions of the total examination results. In addition the Committee will file with the Court thirty days before each examination the proposed formula for grading the entire examination.

7. Before being recommended by the Committee on Character and Fitness for admission to the practice of law in Arizona, an applicant, in addition to passing the bar examination administered by the Committee on Examinations, 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.

8. 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.

9. An examination applicant 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 of the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations.

10. 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.

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

1. An applicant failing to pass one examination may apply for two subsequent examinations if the applicant meets all requirements listed in Rule 34(c). The application, in the form specified by Rule 34(a), shall be accompanied by the application and examination fees as established by the Court, such supporting documents specified in Rule 34(b) as the Committee on Character and Fitness may request and, if required by the Committee, such additional investigation fee as the

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Committee may determine is reasonably required to properly investigate the qualifications of such applicant.

2. An applicant who has filed for an examination and to be admitted to the practice of law, 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 an examination, withdraws from an examination, fails to complete an examination, or does not appear for and write an 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 and failing the examination three times will not be permitted to take a further examination, unless all requirements listed in Rule 34(c) are met, and the Committee on Examinations grants permission for the applicant to write another examination. 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 write a further examination, it shall grant permission to write the additional examination.

(d) Petition for Review Upon Failure to Receive Satisfactory Grade. An applicant who receives a failing grade on the examination may proceed as follows:

1. Such applicant shall, within the twenty (20) day period specified by the Committee on Examinations after results of such examination have been mailed, file a petition with the Committee on Examinations entitled "Petition for Review of Examination Papers of Applicant" and pay a fee established by the Court.

2. The petition shall be verified by the applicant personally and shall specifically enumerate the questions and answers claimed to have been unfairly graded and the particulars wherein it is claimed the grade awarded by the Committee on Examinations is unjustified by the merits of the answer. No general claim of unfairness will be entertained by the Committee and any petition which does not specify the exact and complete particulars of the claimed improper and unfair grading shall be dismissed summarily.

3. The petition shall state succinctly and with specificity the alleged error or errors in grading. The petition shall not exceed fifteen (15) pages excluding exhibits, shall be typewritten in standard legal form, and styled as provided for proceedings before the Committee on Character and Fitness, as set forth in Rule 36(a), substituting the Committee on Examinations. The petition shall have attached a copy of applicant's answer(s) that applicant claims to have been unfairly graded. No other exhibits shall be attached to the petition. Any applicant filing a petition must provide an original and twelve (12) copies and shall file the petition with the Committee on Examinations. The only identifying mark to be placed on the petition is the number assigned to the applicant for taking the examination, which number shall serve as identification. Any reference to the applicant's other scores, economic status, social standing, gender, ethnicity, employment, personal relationship, letters of recommendation, or other extraneous information is strictly prohibited and may result in the petition's summary rejection by the Committee on Examinations.

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- 4. Upon receipt of a petition for review, the Committee on Examinations shall review the petition and such of the applicant's examination papers as the Committee believes necessary to properly evaluate the fairness of the grades awarded. The Committee need not convene as a body for the purposes of such review.
- 5. If the Committee on Examinations finds that the examination was unfairly or improperly graded, and that, if properly and fairly graded in accordance with the standard used by the Committee in grading the examination generally, such applicant should have been awarded a satisfactory grade, the Committee shall recommend that the applicant be admitted to the practice of law in the same manner as if the applicant had been given a satisfactory grade upon the examination.
- 6. The Multistate Bar Examination (MBE) and the Multistate Professional Responsibility Examination (MPRE) sponsored by the National Conference of Bar Examiners, if utilized by the Committee on Examinations, shall be exempt from the review procedures heretofore prescribed. Additional testing products sponsored by the National Conference of Bar Examiners, if utilized by the Committee on Examinations, may be exempt from the review procedures, at the discretion of the Committee.
- 7. 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 Examination's 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

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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.

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 clerk of this Court 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 clerk of this Court with a brief statement of the reasons for requiring such subpoena accompanied by a form of order authorizing the clerk of this Court to issue such subpoena and the form thereof for issuance by the clerk.

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)(6)(C) or (f)(4) of this rule; provided however that applicants for admission on motion shall not be recommended for conditional admission.

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(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.

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;

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

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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.

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(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. *Informal Hearing Panel.* An informal hearing panel shall consist of at least three members of the Committee.

4. *Attendance of Panel Members at Hearing.* In the case of an informal hearing required by paragraph (d)(4) of 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.

5. *Concurrence of Members.* In the case of informal hearings required by paragraph (d)(4) of this rule, 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. In all other cases, the concurrence of a majority of the panel shall be required.

6. *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.

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(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.

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3. *Formal Hearing Panel.* A formal hearing panel shall consist of at least a majority of the members of the Committee. A majority of the members of the Committee shall attend the formal hearing. If a member of the hearing panel is not present at the hearing, the record shall be made available to all panel members and thereafter, a decision shall be made by a majority of the panel as soon as practicable.

4. *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.

5. *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.

6. *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.

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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 examination applicant shall be admitted to the practice of law in Arizona until the applicant has successfully completed the Arizona 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 bar examination will nullify and 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.

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, Rule 37 and Rule 38(h), 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.

(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.

Rule 37 (continued)

(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 of applicants for admission and the proceedings of the Committee on Character and Fitness 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 may

1. disclose the records of 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 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 at the commencement of hearing evidence to be used at the hearing, as permitted by Rules 36(e)(7) and 36(f)(7).

(d) Refund of Fees.

1. An applicant who submits an application for admission by 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. An applicant who is recommended for admission under Rule 35(d) shall be entitled to a refund of the entire examination fee in the event the applicant has submitted an application for the examination subsequent to the one in which the applicant has filed a petition for review.
2. An applicant for admission on motion shall not receive a refund of the Admission on Motion application fee for any reason, including denial of admission, withdrawal of the application, or

Rule 37 (continued)

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 for admission on motion 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.

Rule 38 (continued)

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.

Rule 38 (continued)

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;

Rule 38 (continued)

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.

Rule 38 (continued)

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.

Rule 38 (continued)

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;

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;

Rule 38 (continued)

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);

Rule 38 (continued)

- 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

Rule 38 (continued)

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.

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

Rule 38 (continued)

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.* The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. This rule is adopted as one means of providing assistance to practicing attorneys in providing such services and to encourage law schools to provide clinical instruction in trial work of varying kinds and to facilitate volunteer opportunities for students in pro bono contexts.

2. *Activities of Clinical Law Professors.* A clinical law professor not a member of the state bar but certified pursuant to paragraph (d)(7)(A) of this rule may appear as lawyer, solely in connection with supervision of a clinical law program approved by the dean and faculty of a law school in Arizona which is 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 paragraphs (d)(3)(A)-(D) 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.

3. *Activities of Law Students.*

A. An eligible law student meeting the requirements of paragraph (d)(5) 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 lawyer has also indicated in writing approval of that appearance, in the following matters:

- i. any civil matter: in such cases in justice, municipal, and magistrate courts, the supervising 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;

Rule 38 (continued)

ii. any misdemeanor criminal defense matter in justice, municipal, and magistrates courts: in such cases the supervising lawyer is not required to be personally present in court except during trial if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

iii. any felony criminal defense matter in justice, municipal, and magistrate courts and any criminal matter in superior court: in such cases the supervising lawyer must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted. Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising lawyer to be personally present for such period and under such circumstances as the court may direct.

B. An eligible law student meeting the requirements of paragraph (d)(5) may also appear in any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the prosecuting attorney or that attorney's authorized representative. In all appearances in criminal cases a supervising lawyer must be present except when such appearance is in justice, municipal, or magistrate courts.

C. In each case, the written consent and approval referred to above 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 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 this rule.

D. Under the general supervision of the supervising lawyer, but outside his personal presence, an eligible law student meeting the requirements of paragraph (d)(5) may engage in other activities, including:

i. preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer;

ii. preparation of briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising lawyer;

iii. 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);

iv. rendering legal advice and performing other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising lawyer.

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E. An eligible law student meeting the requirements of paragraph (d)(5) may participate in oral argument in this Court and the court of appeals, but only in the presence of the supervising lawyer.

F. Students who meet the requirements of paragraph (d)(6) below may, at the invitation and request of the court, appear as a law student volunteer to assist the proceeding in any civil matter involving an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel. Such students must be directly supervised in person by an attorney associated with a volunteer legal services program as described in paragraph (d)(6)(B).

G. Except for students participating under the requirements of paragraph (d)(6) below, all activities under this rule must be part of the law school's educational and clinical law practice program approved by the dean and faculty of a law school either provisionally or fully approved and accredited by the American Bar Association. A written statement of the contents of the school's educational and clinical law practice program of the law school's juris doctorate program either provisionally or fully approved and accredited by the American Bar Association shall be filed with the executive director of the state bar not later than thirty days prior to the commencement of the program.

4. *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:

A. be duly employed as a faculty member of a law school in Arizona which is 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;

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

C. 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

D. 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.

5. *Requirements and Limitations for Law Students.* Except for students making an appearance pursuant to paragraph (d)(3)(F), in order to make an appearance pursuant to this rule, the law student must:

A. be duly enrolled in a law school's juris doctorate program either provisionally or fully approved and accredited by the American Bar Association, and be supervised by a member of the State Bar of Arizona, and be certified by the deans of the law school on a form approved by the clerk of this Court showing compliance with Rules 38(d)(3)(F), 38(d)(5)(B) and (C), and 38(d)(7);

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- B. have successfully completed legal studies amounting to at least three semesters, or the equivalent if the school is on some basis other than a semester basis;
- C. be certified by the dean of the law school as being of good character and competent legal ability, and as being adequately trained to perform as a legal intern, including instruction in civil, criminal, and courtroom procedure;
- D. 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, but this shall not prevent a 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; and
- E. 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.

6. Requirements and Limitations for Law Students making appearances pursuant to paragraph (d)(3)(F). The law student must:

- A. During the academic year, be duly enrolled in a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association, and during the summer, be in good standing at a provisionally or fully approved and accredited law school in Arizona and intending to return, or have graduated and be studying for the Arizona Bar;
- B. Be participating in a volunteer legal services program managed by an approved legal services organization in cooperation with a provisionally or fully approved and accredited law school in Arizona;
- C. Be directly supervised in person by an attorney associated with such volunteer legal services program;
- D. Receive 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 by the volunteer legal services program.

7. Certification for Students Making an Appearance Pursuant to paragraph (3)(3)(A)-(E).

- A. The certification of a clinical law professor by the law school dean shall be filed with the clerk of this Court and with the state bar and shall remain in effect until withdrawn.
- B. The certification of a law student making an appearance pursuant to paragraph (d)(3)(A)-(E) by the law school dean shall be filed with the clerk of this Court and with the state bar and, unless it is sooner withdrawn, it shall remain in effect until the expiration of eighteen months after it is filed or until the announcement of the results of the first bar examination following the student's graduation, whichever is earlier. As to any student who passes that examination, the certification shall continue in effect until the date the student is admitted to the bar.

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C. In the case of either a clinical law professor or a law student, certification:

- i. may be withdrawn by the dean 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 or the law student and the supervising lawyer;
- ii. may be terminated by this Court at any time without cause and without notice or hearing by filing notice of the termination with the clerk of the Court and with the state bar; and
- iii. 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. 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 law student pursuant to this rule. Termination of certification shall be without prejudice to the privilege of the professor or student to make application for admission to practice law if the professor or student is in other respects qualified for such admission.

8. *Supervision.* In this rule, “supervising lawyer” means either a clinical law professor or a member of the state bar in each case whose service as a supervising lawyer for this program is approved by the dean of a provisionally or fully approved and accredited law school in which the law student is enrolled. An eligible law student shall do any of the things permitted by this rule only under the supervision of the supervising lawyer. The supervising lawyer shall not delegate this responsibility to another except that the incumbent of a public office may designate one or more qualified deputies for this purpose. The supervising lawyer shall:

- A. assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work;
- B. assist in the student's preparation to the extent the supervising lawyer considers it necessary; and
- C. agree to serve as a supervising lawyer and to participate in the program or activities authorized and certified by the dean of a provisionally or fully approved and accredited law school's juris doctorate program.

9. *Miscellaneous.*

- A. To the extent that a professor or 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 active members of the state bar (but not required to pay fees).
- B. The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.
- C. Nothing contained in this rule 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.

Rule 38 (continued)

D. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by professors or students certified under the provisions of this rule. All persons participating in a program of instruction pursuant to which a professor or student is certified under this rule are enjoined not to disclose privileged or confidential communications whether in the implementation of a course of instruction or otherwise.

(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

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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.

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.

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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;

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- 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

Rule 38 (continued)

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

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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);
- 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

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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

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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.

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) Admission on Motion.

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

The applicant shall:

- A. 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;
- 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;

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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; and

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

H. submit evidence of successful completion of the course on Arizona law described in paragraph (h)(5) 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 affirmatively permits such activity by a lawyer not admitted to practice; however, in no event shall activities listed under (2)(E) and (F) that were performed in advance of bar admission in the jurisdiction to which application is being made be accepted toward the durational requirement:

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 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; or

F. service as corporate counsel.

3. For the 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.

4. An applicant who has failed a bar examination administered in this jurisdiction within five years of the date of filing an application under this rule shall not be eligible for admission on motion.

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5. Before being admitted on motion, 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) 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

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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 jurisdictions(s) in which that lawyer is admitted to practice law.

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

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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.