

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-20-0020
RULES 34 THROUGH 37, RULES OF)
THE SUPREME COURT OF ARIZONA)
)
) **FILED: 8/27/2020**
)
)
_____)

**ORDER
AMENDING RULES 34-37, ARIZONA RULES OF THE SUPREME COURT**

A petition having been filed proposing to amend Rules 34-37 of the Arizona Rules of the Supreme Court, and one comment having been received, and having considered the petition and comment, along with other changes to Rules 34, 35, and 37 proposed in R-19-0044,

IT IS ORDERED that Rules 34-37 of the Arizona Rules of the Supreme Court are amended in accordance with the attachment to this order, effective January 1, 2021.

DATED this 27th day of August, 2020.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution

Mark D Wilson

Ann A. Scott Timmer

ATTACHMENT¹

ARIZONA RULES OF THE SUPREME COURT

Rule 34. Application for Admission

(a) & (b) [No change in text.]

(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. [No change in text.]

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

(d) [No change in text.]

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

1.- 2. [No change in text.]

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

(f) **Admission on Motion.**

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

¹ Additions to the text are shown by underscoring and deletions of text are shown by ~~strike-through~~.

The applicant shall:

A. either (i) have been admitted by bar examination to practice law in another jurisdiction allowing for admission of Arizona lawyers on a basis equivalent to this rule and primarily engaged in the active practice of law in one or more state(s) territories or the District of Columbia for three of the five years immediately preceding the date upon which the application was filed, or (ii) have been admitted by bar examination to practice law in another jurisdiction that does not allow for admission of Arizona lawyers on a basis equivalent to this rule and thereafter were admitted to and primarily engaged in the active practice of law in another jurisdiction allowing admission of Arizona lawyers on a basis equivalent to this rule for three of the five years immediately preceding the date upon which the application is filed;

B. [No change in text.]

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

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

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

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

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

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

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

A. through F. [No change in text.]

G. service as corporate counsel in Arizona ~~before January 1, 2009~~ or while registered pursuant to Rule 38(a). Active practice performed within Arizona pursuant

to Rule 38(a) may be applied to meet active practice requirements found in Rule 34(f)(1)(A)(ii) provided all other requirements of Rule 34(f) are met.

3. – 5. [No change in text.]

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

1. shall 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. shall pay the application fee as established by the Court; ~~and~~

3. may request that the Committee perform an initial review of the applicant's application to determine whether the applicant meets the active practice requirement. The request must be received prior to the Committee commencing its investigation. Upon applicant's written request, the Committee shall determine whether applicant meets the active practice requirement and provide the applicant with a written determination. If applicant fails to meet the active practice requirement, the Committee shall refund that portion of the application fee as determined by the Court.

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

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

The applicant shall:

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

B. [No change in text.]

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction, earned within ~~five~~ eight years of the date of application or within the time frame for taking the oath of admission after the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations;

D. - G. [No change in text.]

2. [No change in text.]

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

4. [No change in text.]

(i) - (k) [No change in text.]

(l) Deficiency in Character Report Materials. If the Committee on Character and Fitness finds that the character report materials are deficient, the Committee shall advise the applicant in writing of the deficiency and shall allow a reasonable time for the applicant either to submit additional written information or relevant documentation, or to correct or otherwise remedy the defects in the applicant's supporting documents. Thereafter, if such deficiencies have not been cured within the designated time period, the application shall be considered abandoned by the applicant and the Committee's ~~may abandon processing and~~ review of the investigation into the applicant's character shall cease, and the Committee shall advise applicant of such abandonment and the reasons therefore. If the application has been abandoned for more than one year and the applicant later seeks to continue the admission process, applicant must submit a new application and associated fees.

(m) & (n) [No change in text.]

Rule 35. Examination Requirements

(a) [No change in text.]

(b) Examination Subjects; Grading.

1. [No change in text.]

2. Unless otherwise directed by the Court, ~~The~~ the Committee on Examinations may use such grading or scoring system for the Multistate Essay Examination and Multistate Performance Test as the Committee on Examinations, in its discretion, deems appropriate. Answers to the Multistate Essay Examination shall be graded according to generally applicable principles of law. Raw scores on the Multistate Essay Examination and the Multistate Performance Test shall be scaled to the Multistate Bar Examination scores according to the method approved by the National Conference of Bar Examiners for jurisdictions that administer the uniform bar examination.

3. An applicant who takes the uniform bar examination in Arizona or seeks to transfer a uniform bar examination score from another uniform bar examination jurisdiction will be deemed to have satisfied the requirements of the Arizona uniform bar examination if the applicant achieves a scaled score equal to or greater than the minimum acceptable score established by the ~~Committee~~ Court for the test administration, under conditions consistent with the practices and procedures of the Committee on Examinations and the National Conference of Bar Examiners. The passing score for each test administration shall be posted on the Supreme Court Website. Results of the bar examination will be published in accordance with Rule 37(c) and mailed or e-mailed at such dates and times as the Committee deems appropriate. Arizona bar examination attempts prior to adoption of the uniform bar examination, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules.

4. [No change in text.]

5. Testing accommodations will be provided for an Arizona uniform bar examination applicant demonstrating a disability to the extent such accommodations are reasonable, consistent with the nature and purpose of the examination, and necessitated by the applicant's disability. An applicant seeking an accommodation shall file a request for testing accommodation in such form as prescribed by the Committee. A fully completed request for accommodation, including supporting documentation, shall be submitted with the application for the examination in accordance with filing deadlines as set by the Court. Accommodation determinations shall be made by the Committee or, upon approval of the Committee chair, by three-person panels appointed from Committee membership by the Attorney Admissions manager or designee.

6. [No change in text.]

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

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

9. [No change in text.]

10. The Committee on Examinations may take action, by majority vote, to enforce the Committee's own conditions, practices, and procedures, as well as those of the National Conference of Bar Examiners, including expulsion from the examination, temporary withholding of a score, or nullification of a score. The Committee on Examinations may vote to expel an applicant from the examination and/or temporarily withhold a score. The Committee on Examinations may vote to nullify a score after the applicant is provided an opportunity for a hearing. The Committee chair, by order, shall establish the procedures associated with such a hearing.

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

1. An applicant failing to pass ~~one~~ the uniform bar examination in any jurisdiction may apply to sit for ~~two~~ subsequent uniform bar examinations in Arizona if the applicant meets all requirements listed in Rule 34(b). An applicant who has taken the uniform bar examination six times must receive permission from the Committee on Examinations before sitting for subsequent examinations in Arizona as provided in Rule 35(c)(3). The application, in the form specified by Rule 34(c), shall be accompanied by the application and examination fees established by the Court, all supporting documents specified in Rule 34(d) or as the Committee on Character and Fitness may request and, if required by the Committee, such additional investigation fee as the Committee may determine is reasonably required to properly investigate the qualifications of such applicant. ~~Arizona bar examination attempts prior to adoption of the uniform bar exam, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules.~~

2. [No change in text.]

3. An applicant taking the uniform bar examination ~~three~~ six times in any jurisdiction and failing to earn the minimum acceptable score established by the ~~Committee on Examinations~~ Court will not be permitted to take a further examination, unless all requirements listed in Rule 34(b) are met, and the Committee on Examinations grants permission for the applicant to write another examination in Arizona. The applicant shall submit a written request to the Committee on Examinations stating the additional study and preparation that the applicant has made to qualify for further examination or other good cause or change in circumstances that would affect the applicant's performance on the examination. If the Committee finds reasonable cause to believe the applicant may successfully pass a further examination, it shall grant permission to sit for the additional Arizona uniform bar examination. Arizona bar examination attempts prior to adoption of the uniform bar exam, successful or unsuccessful, shall be considered equivalent to the Arizona uniform bar examination for purposes of these rules.

(d) [No change in text.]

Rule 36. Procedure Before the Committee on Character and Fitness

(a) [No change in text.]

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

1. [No change in text.]

2. *Conviction of a Crime and other Conduct.*

A. [No change in text.]

B. The Committee, acting through one of its panels, must transmit to the clerk of the Court prior to admission any recommendation for admission of an applicant who has ~~been~~ (i) been convicted of a misdemeanor involving a serious crime, (ii) been convicted ~~or~~ of any felony, (iii) committed conduct resulting in a felony conviction that was subsequently expunged or set aside, or (iv) been denied of professional licensure or certification in any jurisdiction ~~to the clerk of the Court prior to admission.~~

3. & 4. [No change in text.]

(c) [No change in text.]

(d) Further Investigation.

1. - 3. [No change in text.]

4. Notwithstanding the above provisions, an applicant must not be recommended for admission without at least an informal inquiry pursuant to paragraph (e) in any cases in which the investigation reveals and the investigating member determines that there are allegations of serious misconduct 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; or

E. denial of professional licensure or certification in any jurisdiction.

(e) Informal Inquiries. Informal inquiries must be held in cases involving allegations of serious misconduct specified in paragraph (d)(4) above and may also be held in other cases as determined by the investigating member.

1. - 4. [No change in text.]

5. *Decision.* The inquiry panel's decision ~~shall~~ must be in writing.

A. - D. [No change in text.]

(f) [No change in text.]

(g) Conditional Admission.

1. - 5. [No change in text.]

6. *Violation of Order of Conditional Admission.* Upon determining that the conditional admittee has materially violated the terms of the conditional admission, bar counsel must file a notice of violation with the Committee and serve a copy on the conditional admittee. The filing of a notice of violation will automatically extend the conditional admission until the matter is resolved by the Committee. As soon as practicable, the Committee must hold a hearing to determine if the order has been violated. The Committee chair, by order, shall establish the procedures associated with such hearing. The hearing panel for the violation hearing will consist of at least a majority of the current members of the Committee. The Chair or his or her designee will preside over the hearing. Bar counsel must prove a material violation by a preponderance of the evidence. The Committee's decision will require a concurrence of a majority of the panel members. If the Committee determines that a material violation has been proved, the Committee may revoke, extend, or modify the Order of Conditional Admission. The Committee's decision is final subject to the filing of a petition for review pursuant to paragraph (h). If the Committee determines that there was a material violation of the terms based on a violation of the ethical rules but did not revoke the Order of Conditional Admission, the Committee may refer the matter to the State Bar for discipline proceedings pursuant to Rule 55.

7. & 8. [No change in text.]

(h) [No change in text.]

Rule 37. Miscellaneous Provisions Relating to Admissions

(a) Time Limitations on Admission.

1. & 2 [No change in text.]

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

(b) [No change in text.]

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

1. [No change in text.]

2. publicly announce the names of the applicants who have successfully completed the examination, except for applicants who applied in accordance with Rule 34(b)(2) and who have not satisfied the evidence of graduation requirement;

3. report to the law school from which the applicant graduated the applicant's status as pass, fail, or withdrew from examination, except for applicants who applied in accordance with Rule 34(b)(2) and who have not satisfied the evidence of graduation requirement; and

4. disclose to an applicant, as required by Rule 36(e) and (f) ~~paragraphs (e) and (f) of this rule~~, evidence to be used at the hearing.

(d) & (e) [No change in text.]