



**ADMINISTRATIVE OFFICE OF THE COURTS
CERTIFICATION AND LICENSING DIVISION**

MEMORANDUM

TO: Attorney Regulatory Advisory Committee

FROM: Mark D. Wilson
Director
Certification and Licensing Division

DATE: December 9, 2019

RE: Admission on Motion and Arizona's Bar Exam Cut Score Requirement

The purpose of this memorandum is to provide the Committee with certain background information concerning Agenda item 2 prior to the Committee meeting scheduled for December 11, 2019.

Rule 34(f), Rules of the Supreme Court authorizes certain individuals to apply for admission to the State Bar of Arizona by motion. Rule 34(f)(1)(A) provides in part:

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

The applicant shall:

- A. either (i) have been admitted by bar examination to practice law in another jurisdiction allowing for admission of Arizona lawyers on a basis equivalent to this rule, 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 *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*; (emphasis added)

In addition to the active practice requirement, Rule 34(f) provides several additional qualification requirements for an individual who wishes to be admitted by motion. One qualification requirement is found in Rule 34(f)(4) which provides:

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

ARC has been asked to study whether an individual that satisfies the three of five years of active practice requirement found in Rule 34(f)(1)(A) should be precluded from admission by motion if the individual has failed Arizona's bar exam or failed to achieve a scaled score in another jurisdiction equivalent to Arizona's cut score.

Rule 34(f) is attached to this memorandum.

(f) Admission on Motion.

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

The applicant shall:

- A. either (i) have been admitted by bar examination to practice law in another jurisdiction allowing for admission of Arizona lawyers on a basis equivalent to this rule, 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 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. hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association at the time of graduation;
 - C. have been primarily engaged in the active practice of law in one or more states, territories, or the District of Columbia for 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. representation of one or more clients in the practice of law;

- B. service as a lawyer with a local, state, or federal agency, including military service;
 - C. teaching law full-time at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;
 - D. service as a judge in a federal, state, territorial, or local court of record;
 - E. service as a judicial law clerk;
 - F. service as corporate counsel; or
 - G. service as corporate counsel in Arizona before January 1, 2009 or while registered pursuant to Rule 38(h). Active practice performed within Arizona pursuant to Rule 38(h) may be applied to meet active practice requirements found in Rule 34(f)(1)(A)(ii) provided all other requirements of Rule 34(f) are met.
3. For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located. The “active practice of law” is further defined to require that at all times in the durational period the applicant has held a law license in “active” status.
 4. An applicant who has failed a bar examination administered in this jurisdiction or who has passed the uniform bar examination in another jurisdiction but failed to achieve the Arizona scaled score within five years of the date of filing an application under this rule shall not be eligible for admission on motion.
 5. The Court shall approve jurisdictions considered “reciprocal” to Arizona, and the Committee shall publish and make available a list of reciprocal jurisdictions.

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