



Supreme Court

STATE OF ARIZONA

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CLERK OF THE COURT

402 ARIZONA STATE COURTS BUILDING
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June 9, 2005

RE: RULES 32-40, 46, 62, 64 & 65, RULES OF SUPREME CT
Arizona Supreme Court No. R-04-0032

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on June 1, 2005, in regard to the above-referenced cause:

ORDERED: Petition to Amend Rules 33, 34, 35, 36, 37, 38, 64, and 65, Arizona Rules of the Supreme Court = ADOPTED as modified, effective December 1, 2005.

Noel K Dessaint, Clerk

TO:

David K Byers, Chairperson, Special Task Force on Admissions and Reinstatements

Robert B Van Wyck, Chief Counsel, State Bar of Arizona

Juan Perez-Medrano, Committee on Character and Fitness

Lexis-Nexis

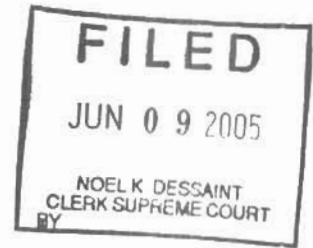
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IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-04-0032



ORDER AMENDING
RULES 32-40, 46, 62, 64, and 65,
RULES OF THE SUPREME COURT

IT IS ORDERED that Rules 32-40, 46, 62, 64, and 65, Rules of the Supreme Court, be amended in accordance with the attachment hereto,* effective as of December 1, 2005.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 9th day of June, 2005.

For the Court:


RUTH V. MCGREGOR
Vice Chief Justice

* Changes or additions in text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

RULES OF THE SUPREME COURT

* * *

B. Organization of State Bar of Arizona

Rule 32. Organization of State Bar of Arizona

(a) Organization

1. *Establishment of state bar.* In order to advance the administration of justice according to law, to aid the courts in carrying on the administration of justice; ~~to provide for and regulate the admission of persons seeking to engage in the practice of law;~~ to provide for the regulation and discipline of persons engaged in the practice of law; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service, and high standards of conduct; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence, and law reform; to carry on a continuing program of legal research in technical fields of substantive law, practice and procedure, and to make reports and recommendations thereon; to encourage practices that will advance and improve the honor and dignity of the legal profession; and to the end that the responsibility of the legal profession and the individual members thereof may be more effectively and efficiently discharged in the public interest, and acting within the powers vested in it by the constitution of this state and its inherent power over members of the legal profession as officers of the court, the Supreme Court of Arizona does hereby perpetuate, create and continue under the direction and control of this court an organization known as the State Bar of Arizona, such organization which may be a non-profit corporation under Chapter 5 of Title 10 of the Arizona Revised Statutes, and all persons now or hereafter licensed in this state to engage in the practice of law shall be members of the State Bar of Arizona in accordance with the rules of this court. The State Bar of Arizona may sue and be sued, may enter into contracts and acquire, hold, encumber, dispose of and deal in and with real and personal property, and promote and further the aims as set forth herein and hereinafter in these rules.

2. [No change in text.]

(b)-(l) [No change in text.]

C. Admission to ~~Bar~~ Practice of Law

Rule 33. Committees; Practice

(a) **Committees; Powers and Duties.** The examination ~~and admission~~ of applicants and their admission to the practice of law for membership in the State Bar of Arizona shall conform to this rule. For such purposes, there shall be two committees, the Committee on Examinations, and the Committee on Character and Fitness. The Committee on Examinations shall consist of ~~seven~~ twelve or more ~~active~~ members in good standing of the state bar, and the Committee on Character and Fitness shall consist of ~~seven~~ eleven or more ~~active~~ members in good standing of the state bar and ~~two~~ four or more nonlawyer members of the public. Members of each committee shall be appointed by the ~~e~~Court upon the recommendation of the Board of Governors of the State Bar of Arizona, which shall recommend at least three names for each appointment to be made. Members of the two

committees shall serve for seven-year terms. Upon the expiration of a member's term, the eCourt shall appoint a new member to serve for a term of seven years. As to each committee, in the event of a resignation or inability of a committee member to serve, the eCourt shall appoint another person to serve the unexpired term. The Committee on Examinations shall examine applicants and advise this eCourt and the Committee on Character and Fitness of those who have passed the examination or examinations required for admission to the state bar. The Committee on Character and Fitness shall recommend to this eCourt for admission to the state bar those individuals who, having passed the examination or examinations required for admission to the state bar, are deemed by the Committee to be qualified on the basis of character and fitness. The eCourt will then consider the recommendations and either grant or deny admission.

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

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

[Subsections (d) (Admission Pro Hac Vice), (e) (Full Time Law School Faculty Members), and (f) Foreign Legal Consultants have been moved to Rule 38 (a), (b), and (c).]

Rule 34. Application for Admission

(a) Application and Character Report. Any person desiring to be admitted to the practice of law in the State of Arizona must submit to the ~~secretary of the~~ Committee on Character and Fitness, an ~~written~~ application in the form supplied by the Committee. The application for admission must be accompanied by required supporting documents, examination fee and application fee. The applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the ~~supreme eCourt~~. The character report and related fee may be submitted separately from the application for admission.

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

1. Subject to the exception made and provided for in paragraph (c)(42)(D) of this rule, the applicant's law school diploma, or other evidence satisfactory to the Committee on Character and Fitness showing that he or she is a graduate with a juris doctor ~~or bachelor of laws and letters~~ degree ~~of from~~ a law school provisionally or fully approved by the American Bar Association at the time of graduation.

2. [No change in text.]

3. An examination fee as established by the ~~supreme eCourt~~.

4. An application fee as established by the ~~supreme~~ Court.

5. [No change in text.]

6. Application for admission must be accompanied by a complete set of the applicant's fingerprints. The ~~Supreme Court's~~ 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) Applicant Requirements and Qualifications.

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

~~1~~2. No applicant shall be recommended to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied:

A. ~~T~~hat the applicant is or at the time of the examination will be over the age of twenty-one years;

B. ~~T~~hat the applicant is of good moral character;

C. ~~T~~hat 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. ~~T~~hat the applicant is a graduate with a juris doctor ~~or bachelor of laws and letters degree of 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 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. ~~T~~hat, if ever admitted to practice law in any jurisdiction, foreign or domestic, the applicant is presently in good standing, or that the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction.

~~2. The Committee on Character and Fitness may provide for early filing of an intention to seek admission to the state bar on the part of Arizona law students, after completion of their first year at the University of Arizona College of Law or Arizona State University College of Law, to enable expeditious inquiry into the character and fitness of the applicant and to facilitate the giving of advice and counsel on issues relating to character and fitness.~~

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

(d) Application Filing Schedule; Penalties Fees.

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

(e) [No change in text.]

(f) Deficiency in Character Report. If the Committee on Character and Fitness finds that the character report is 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 such applicant's character report and supporting documents, as the case may be. Thereafter, if such deficiencies have not been cured within the designated time period, the Committee may abandon processing and review of the applicant's character report and records, and shall advise applicant of such abandonment and the reasons therefore.

(g) Failure to Meet Standards; Effect on Time for Reapplication. If an applicant has been denied admission, by either the Committee or the Court, by reason of the failure to meet the standards required by paragraph (c) 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.

(f)(h) Completion of Professionalism Course.

1. *New Admittee Professionalism Course.* Except as otherwise provided in this rule, within one year after being admitted to the ~~state bar 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. A new admittee taking inactive status immediately upon admission is exempt from completing such a course but shall complete one within 12 months of becoming an active member of the state bar.

~~b~~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.* ~~An applicant~~ new admittee who fails to comply with the requirements of paragraph (h)(1) of this rule ~~§ 1 above~~, shall be summarily suspended from membership in the state bar, upon motion of the state bar pursuant to Rule 62-52(d), provided that a notice by certified, return receipt mail of such non-compliance shall have been sent to the member, mailed to ~~his~~ 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) [No change in text.]

(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: contracts (including the Uniform Commercial Code except Articles 4, 5, 6, 7 and 8); torts; criminal law; constitutional aspects of criminal procedure; corporations, partnerships, and other business organizations; trusts; wills; professional responsibilities; civil procedure (Arizona and federal); constitutional law (Arizona and federal); evidence; real property; 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.

2. [No change in text.]

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 which are consistent with the practices and procedures of the Committee on Examinations ~~of the Supreme Court~~ and of the National Conference of Bar Examiners.

4. The Committee on Examinations will file with the eCourt 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 eCourt thirty days before each examination the proposed formula for grading the entire examination.

5. [No change in text.]

6. The Committee on Examinations will file with the ~~Supreme 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.

7. [No change in text.]

~~8. (e) Examination Grading. The semi-annual examinations shall not be oral. 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 bar practice of law.~~

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

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

~~3. An applicant who has passed the examination but has been denied admission by reason of the failure of such applicant to meet the standards required by rule 34(e) shall be permitted to make further application for admission to the Committee on Character and Fitness, and on a finding by the Committee that he or she then is qualified as to character and fitness, shall be recommended for admission under rule 33(a); provided, however, the subsequent application for admission must be filed within three years from the date of the denial.~~

43. 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

(e)(d) Petition for Review Proceedings—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 ~~supreme c~~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 ~~such~~ petition which does not ~~particularize and~~ 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 ~~other~~ 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) which applicant claims to have been unfairly graded. No other exhibits shall be attached to the petition by the applicant. Any applicant filing a petition must provide an original and nine (9) 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 being rejected summarily by the Committee on Examinations. The applicant shall pre-pay for any reproduction or copying cost incurred in connection with providing applicant copies of his or her examination books or other material requested by applicant at the standard rate then in effect for copies.

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

~~6. Following this review process, the Committee on Examination's decision regarding an applicant's grade score is final and will not be reviewed by the Supreme Court absent extraordinary circumstances.~~

~~7~~6. The Multistate Bar Examination (MBE), sponsored by the National Conference of Bar Examiners, if utilized by the Committee on Examinations, and the Multistate Professional Responsibility Examination (MPRE) shall be exempt from the review procedures heretofore

prescribed.

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 reasons deemed sufficient, the Committee may certify to this Court that in its opinion a special investigator should be appointed from state bar members to further investigate and present the evidence bearing upon the issue of the applicant's qualifications to be admitted to the state bar. 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 (e)(6)(C) 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 that 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 his or her 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 paragraph (e)(6)(C) of this rule.

(a)(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, ~~and consider the following:~~, and evaluate the traits, characteristics, criminal history, and conduct set forth below.

1. Relevant Traits and Characteristics. An ~~attorney should possess~~ 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. ~~H~~honesty;

B. ~~T~~trustworthiness;

C. ~~D~~diligence;

D. ~~R~~reliability; and

E. ~~R~~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.

23. 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 possesses the traits and characteristics evidencing the requisite character and fitness to practice law:

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

B. Academic misconduct;

C. Making a false statement, including omissions;

D. Misconduct in employment;

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

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 ~~bar~~ 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.

34. Evaluation of Criminal History and Other Relevant Conduct. The Committee on Character

and Fitness shall determine whether the present-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. ~~T~~the applicant's age, experience and general level of sophistication at the time of the conduct;
- B. ~~T~~the recency of the conduct;
- C. ~~T~~the reliability of the information concerning the conduct;
- D. ~~T~~the seriousness of the conduct;
- E. ~~C~~onsideration given by the applicant to relevant laws, rules and responsibilities at the time of the conduct;
- F. ~~T~~the factors underlying the conduct;
- G. ~~T~~the cumulative effect of the conduct;
- H. ~~T~~the evidence of rehabilitation;
- I. ~~T~~the applicant's positive social contributions since the conduct;
- J. ~~T~~the applicant's candor in the admissions process; and/or
- K. ~~T~~the materiality of any omissions or misrepresentations by the applicant.

(c) 4.—Determination of character and fitness: rRecommendation for respecting a Admission Based on Preliminary Review.

A1. 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 (ab)(2) and (3) of this rule.

B2. If it is determined that there is no conduct that falls within one of these categories, the eCommittee 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.

C1. Upon completion of the preliminary review, ~~I~~if it is determined that there is conduct that falls within one or more of these 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.

~~D3.~~ After the necessary investigation, This the committee member, after further investigation, if necessary, shall then 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.

~~E4.~~ 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 all any cases in which the investigation reveals and the Committee determines that there are serious allegations of the conduct of by the applicant, whether or not such conduct resulted in a criminal conviction, that involve:

~~(i.)~~ A. commission of a violent crime;

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

~~(iii.)~~ C. neglect of financial responsibilities due to circumstances within the control of the applicant; or

~~(iv.)~~ D. disregard of ethical or professional obligations.

~~the applicant shall not be recommended for admission, unless, at a minimum, an informal hearing is held and, following the informal hearing, three or more Committee members who have attended the informal hearing or who have read the entire record of the informal hearing, or a majority of those members who have attended the informal hearing or who have read the entire record of the informal hearing, whichever is greater, recommend admission of the applicant. In the event that this requirement is not met, a formal hearing shall be held. A majority of the Committee members shall attend the formal hearing to consider whether or not to recommend the applicant for admission.~~

~~F.~~ The Committee's investigation or the informal or formal hearings may result in the following range of dispositional alternatives:

~~(i.)~~ Recommend the applicant for admission;

~~(ii.)~~ Recommend denial of admission;

~~(iii.)~~ Recommend denial of admission which could be accompanied by a suggestion of re-application in the future upon the occurrence of specified circumstances;

~~(iv.)~~ Require that the applicant provide additional information for review prior to a further recommendation;

~~(v.)~~ Require the applicant to 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 his or her ability to engage in the practice of law prior to reconsideration for admission;

~~(vi.) Recommend the applicant for admission conditioned on compliance by the applicant with specified behavior for a specified period. Bar counsel shall be responsible for monitoring and supervising the applicant during the conditional admission period. In the event the applicant materially violates a term or terms of the conditional admission, bar counsel shall commence a discipline proceeding. At the end of the conditional period, bar counsel shall forward a report to the Committee on Character and Fitness regarding the applicant's completion or non-completion of the imposed terms.~~

~~G. Upon formal hearing, the Committee shall, by a majority vote, make a recommendation as to the dispositional alternatives set forth in (F) above.~~

~~**(b) Formal Deficiency in Application Procedure Applicable.** If the Committee on Character and Fitness finds that the application is deficient, the Committee shall so advise the applicant in writing of the deficiency in the application and shall allow a reasonable time to the applicant to either supply additional information to correct, explain in writing, or otherwise remedy the defects in such applicant's application and supporting papers and documents, as the case may be. Thereafter, if such discrepancies have not been cured and if the reasons for the refusal of the Committee to grant permission to such applicant to take an examination are of record as a part of such applicant's file, the Committee may thereupon deny such permission, stating in writing in the applicant's file its reasons for denying permission to such applicant to take the examination, and shall promptly advise applicant of such denial and the reasons therefore.~~

~~**(ee) Inquiries or Informal Hearings.** In the event additional information or documentation is required with respect to any applicant to enable the Committee on Character and Fitness, in its opinion, to complete the findings required before it recommends as to admission to the state bar with respect to character and fitness, it may: (1) Make an inquiry, either orally or in writing, to the applicant or any other person, for additional information or documentation, or (2) hold an informal hearing. In all cases where the Committee determines that there are serious allegations of conduct of the applicant as specified in paragraph (a)4(E) of this rule, an informal hearing shall be held. 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.* Such inquiry or An informal hearing panel shall consist of may be conducted by any at least three designated member, or members, of the Committee on Character and Fitness.~~

4. Attendance of Panel Members at Hearing. In the case of informal hearings required by paragraph (d)(4) of this rule, at least three members shall attend the hearing. In all other cases, at least one member of the panel shall attend the hearing. Panel members who do not attend the hearing shall read 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. All informal hearings shall be stenographically recorded. 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 recommendation~~ is not to recommend admission, the proceedings shall be transcribed, a copy of the transcript made a part of the applicant's file, and a formal hearing shall be held pursuant to paragraph (df) 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 shall prepare a written decision shall~~ containing 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 ~~and transmitted this decision~~ 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.

(df) Formal Hearings; Notice. 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~~ notice of such formal hearing or hearings shall be given to bar counsel and the applicant in writing, specifying:

1A. ~~The~~ time, place and nature of the hearing;

2B. ~~The~~ legal authority and jurisdiction under which the hearing is held;

~~3C. Aa reference to the particular sections of the statutes and rules involved, if applicable;~~

~~4D. Aa short plain statement as to the subject, or subjects, and purpose, of the hearing;~~

~~5E. 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~~

~~6F. That the applicant shall have the burden of proving, by a preponderance of the clear and convincing evidence, the requisite character and fitness qualifying the applicant for admission to the state bar.~~

~~(e) Informal and Formal Hearings; Depositions, Subpoena and Appointment of Special Investigator. Upon the issuance of the notice of informal or formal hearing, the proceeding shall be and is considered a civil matter pending before this court referred to the Committee on Character and Fitness for hearings, findings and decision as to the right of such applicant to be admitted to the state bar.~~

~~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 as a Member of the _____)
State Bar of the State of Arizona _____)~~

~~1. Thereafter, all of the rules of civil procedure authorizing, relating to and governing depositions in civil proceedings within and outside the state shall become applicable and shall authorize and govern depositions desired either by the applicant or by the Committee on Character and Fitness in connection with said hearing.~~

~~2. Either the Committee on Character and Fitness 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 any justice 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.~~

~~3. In the event the Committee on Character and Fitness by vote of a majority of its members finds that the proposed formal hearing will be complex, or for other reasons deemed sufficient, the Committee may certify to this court that in its opinion a special investigator should be appointed from state bar members to further investigate and present the evidence bearing upon the issue of the applicant's qualifications to be admitted to the state bar. Upon receipt thereof the chief justice of this court, provided he or she approves the need thereof, shall appoint such a special investigator to further investigate said matter and to present all available evidence at the formal hearing. The~~

~~foregoing provision shall not be deemed or construed as denying to the applicant the right to be represented by counsel of the applicant's choosing who may represent applicant fully and independently of the duties and responsibilities of such special investigator.~~

~~(f)2.~~ *Conduct of Formal Hearings.*

~~1A.~~ 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 on Character and Fitness, or an appointed special investigator, may present evidence on behalf of the Committee. The chairperson shall designate a hearing panel ~~Any member of the Committee may be designated by the chairperson~~ as the presiding member and such member shall make all evidentiary and procedural rulings.

~~2B.~~ The formal hearing shall be stenographically 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 ~~shall have the right of to~~ cross-examination witnesses.

~~3C.~~ Copies of documentary evidence may be received at the discretion of the presiding ~~Committee 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), or the applicant, or applicant's counsel shall be given an opportunity to compare the copy with the original.

~~4D.~~ Notice may be taken of judicially cognizable facts.

~~5E.~~ The applicant shall have the burden of proving, by a ~~preponderance of the clear and convincing~~ evidence, the requisite character and fitness qualifying the applicant for admission to the state bar.

~~63.~~ *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, a decision can be rendered. If a majority of the Committee is present at a formal hearing, a decision can be rendered. If a majority of the Committee is not present, the transcript shall be made available to all panel members and thereafter, a decision shall be made by a majority of the Committee panel as soon as practicable.

~~74.~~ *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 shall prepare a written decision shall containing 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, and transmitted this decision 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(ed)(67). The petition shall succinctly and briefly state the facts that form the basis for the complaint, and applicant's reasons for believing this eCourt 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 secretary of the~~ Committee from which the complaint arose and that Committee shall, within ~~fifteen-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 eCourt as to that Committee's reason for its decision and admitting or contesting any assertions made by the applicant in said petition. Thereupon this eCourt 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 eCourt's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

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

Rule 37. Miscellaneous Admissions-Provisions Relating to Admissions

(a) [No change in text.]

(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 State Bar of 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 Arizona Bar, and thereafter a Certificate of Admission shall be issued to the applicant. No applicant is entitled to practice law in Arizona until the Certificate of Admission has been issued.

(c) **Retention and Confidentiality of Records of Applicants for Admission.** The records of applicants for admission to the state bar 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-retained for a period of seven years from the date applicant is admitted to the state bar or seven years from the last activity in the record. 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 is specifically 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, ~~t~~The Committee on Character and Fitness may disclose the records of an applicant to:

1. ~~T~~the National Conference of Bar Examiners;
2. ~~T~~the bar-admitting authority of any other state to which the applicant seeks admission;
3. ~~A~~n attorney discipline enforcement agency;~~or~~
4. ~~A~~n agency authorized to investigate the qualifications of judicial candidates;
5. a law enforcement agency, upon subpoena or good cause shown; or
6. other court agencies or regulatory boards, for good cause shown.

In addition to the disclosure permitted above, the Committee may publicly announce the names of the applicants who have applied for admission and the names of such applicants who have successfully completed the examination.

(d) **Refund of Fees.** An applicant who submits an application for admission ~~to the state bar with the Committee on Character and Fitness~~ 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 of the fees paid, as established by the ~~supreme e~~Court ~~of the fees paid,~~

provided he or she notifies the Committee in writing no later than the day immediately preceding the first day of such examination. 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(ed) shall be entitled to a refund of the entire examination fee in the event he or she has submitted an application for the examination subsequent to the one in which he or she has filed a petition for review.

(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 Examination and Admission Process

[Note: The content of current Rule 38 (Clinical Law Professors) appears in this draft as Rule 38(d).]

(a) Admission Pro Hac Vice.

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

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

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

A. Verified Application to State Bar of Arizona. In order to appear as counsel in any matter pending before a court, board, or administrative agency in the State of Arizona, a nonresident attorney shall file with the State Bar of Arizona an original and one copy of a verified application together with a certificate from the state bar or from the clerk of the highest admitting court of each state, territory or insular possession of the United States in which the nonresident attorney has been admitted to practice law certifying the nonresident attorney's date of admission to such jurisdiction and the current status of the nonresident attorney's membership or eligibility to practice therein and a non-refundable application fee equal to 85% of 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 may be waived to permit pro bono representation of an indigent client or clients, in the discretion of the State Bar of Arizona.

B. Notice of Receipt by State Bar of Complete Application. Upon receipt of the verified application and fee from the nonresident attorney as described above, the State Bar of Arizona shall issue to local counsel a Notice of Receipt of Complete Application which states: (1) whether the nonresident attorney has previously made any application or motion pursuant to this rule within the preceding three years; (2) the date of any such application or motion; and (3) whether the application or motion was granted or denied by the court or administrative agency. The State Bar of Arizona Notice shall include as exhibits: (1) the original verified application and (2) the original certificate(s) of good standing. Copies of verified applications, certificates of good standing and orders granting, denying or revoking applications to appear pro hac vice shall be retained by the State Bar of Arizona for three (3) years.

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

agency shall be mailed by local counsel to the State Bar of Arizona.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Renewal of Application. On or before each anniversary date of the filing of the verified application with the State Bar of Arizona, local counsel must certify to the State Bar of Arizona whether (a) the nonresident attorney continues to act as counsel in the cause; or (b) such cause has been adjudicated to a final conclusion or is otherwise concluded. Any nonresident attorney who continues to act as counsel in the cause shall remit to the State Bar of Arizona on or before each anniversary date a fee equal to 85% of the current dues paid by active members of the State Bar of Arizona for the calendar year in which such renewal is sought.

9. Failure to Renew. Any nonresident attorney who continues to appear pro hac vice in a cause and fails to pay the renewal fees set forth in paragraph (a)(8) of this rule shall be suspended from

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

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

11. Disciplinary Jurisdiction of the State Bar of Arizona. As provided in Rule 46 (b), Rules of the Supreme Court, a nonresident attorney admitted pro hac vice pursuant to these rules shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar of Arizona.

(b) Foreign Legal Consultant.

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

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

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

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

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

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

E. have attained the age of twenty-one;

F. file with the Committee on Character and Fitness an application in the form

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

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

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

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

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

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

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

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

4. Time for Processing Application. The Committee on Character and Fitness may receive and

act upon any such application at any time or in its discretion may require that such applications be received and processed by the Committee at the same time and in the same manner as applications for admission upon examination.

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

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

7. Scope of practice.

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

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

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

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

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

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

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

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

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

i. his or her own name;

ii. the name of his or her law firm;

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

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

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

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

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

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

B. enjoy and be subject to all rights and obligations with respect to attorney-client privilege, work-produce 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(h)(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 the College of Law of the University of Arizona or of the College of Law of Arizona State University or, as to such dean, upon recommendation of the president of such university, a full-time faculty member of such college 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 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.

2. Activities of Clinical Law Professors. A clinical law professor not a member of the state bar but certified pursuant to paragraph (d)(6)(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 the College of Law of the University of Arizona or of the College of Law of Arizona State University, 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 he is appearing 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 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;

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 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 his initial appearance in the case that he is a law student certified to appear pursuant to this rule.

D. Under the general supervision of the supervising lawyer, but outside his personal presence, an eligible law student 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.

E. An eligible law student may participate in oral argument in this Court and the court of appeals, but only in the presence of the supervising lawyer.

F. 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 the College of Law of the University of Arizona or the College of Law of Arizona State University, or other law school's juris doctorate program 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 Arizona State University or University of Arizona College of Law or other law school's juris doctorate program 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 the College of Law of the University of Arizona or the College of Law of Arizona State University 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 his services from the person on whose behalf he renders services; and

D. certify in writing that he 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. In order to make an appearance pursuant to this rule, the law student must:

A. either be duly enrolled in the College of Law of the University of Arizona or the College of Law of Arizona State University, or be duly enrolled in a law school's juris doctorate program 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);

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 his 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 his services from the person on whose behalf he renders services, 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. Certification.

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 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.

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.

7. 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 the law school in which the law student is enrolled or (in the case of a law student enrolled in a law school other than the Arizona State University or University of Arizona College of Law) whose service as a supervising lawyer is approved by the dean of that law school in which the 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 the student in his preparation to the extent the supervising lawyer considers it necessary; and

C. agree to serve as a supervising lawyer and to participate either in the program administered by the Arizona State University or University of Arizona College of Law, or agree to participate in the program or activities authorized and certified by the dean of a law school's juris doctorate program other than the Arizona State University or University of Arizona College of Law.

8. 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 he might lawfully do prior to the adoption of this rule.

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) Emeritus Attorneys Pro Bono Participation Program

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, the following rule establishing the Emeritus Attorneys Pro Bono Participation Program is adopted.

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. An "emeritus attorney" is any person, retired from the active practice of law, who is or was admitted to practice before the highest court of Arizona or any other state or territory of the United States of America or the District of Columbia, and

i. has been engaged in the active practice of law for a minimum of ten out of the fifteen years immediately preceding the application to participate in the emeritus program;

ii. has been a member in good standing of the State Bar of Arizona or 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. if not a retired member of the State Bar of Arizona, has graduated with a juris doctor degree from a law school provisionally or fully accredited by the American Bar Association at the time of the attorney's graduation and has not failed the Arizona Bar examination three or more times;

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

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

vi. is certified under paragraph (e)(5) of this rule.

C. An “approved legal assistance organization” for the purposes of this article is a not-for-profit legal assistance organization which is approved by the Supreme Court of Arizona as set forth herein. A legal assistance organization seeking approval from the Court for the purpose of this article shall file a petition with the clerk of the Court certifying that it is a not-for-profit organization and reciting with specificity:

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 legal services performed by the organization;

iv. the types of legal and nonlegal service 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 which will cover the emeritus attorney.

D. A “supervising attorney” as used herein is an active member of the State Bar of Arizona who directs and supervises an emeritus attorney engaged in activities permitted by this article. The supervising attorney must:

i. be employed by or be a participating volunteer for an approved legal assistance organization;

ii. assume personal professional responsibility for supervising the conduct of the litigation, administrative proceeding or other legal services in which the emeritus attorney participates;

iii. assist the emeritus attorney in his preparation to the extent that the supervisory attorney considers it necessary.

3. Activities.

A. An emeritus attorney, in association with an approved legal assistance organization and under the supervision of a supervising attorney, may perform the following activities:

i. The emeritus attorney may appear in any court or before any administrative tribunal in this state on behalf of a client of an approved legal assistance organization if the person on whose behalf the emeritus attorney is appearing has

consented in writing to that appearance and a supervising attorney has given written approval for that appearance. The written consent and approval shall be filed in the record of each case and shall be brought to the attention of a judge of the court or the presiding officer of the administrative tribunal.

ii. The emeritus attorney may prepare pleadings and other documents to be filed in any court or before any administrative tribunal or arbitrator in this state in any matter in which the emeritus attorney is involved. Such pleadings also shall be signed by the supervising attorney.

iii. The emeritus attorney may render legal advice and perform other appropriate legal services but only after prior consultation with, and upon the express consent of, the supervising lawyer.

iv. The emeritus attorney may engage in such other preparatory activities as are necessary for any matter in which he or she is involved.

B. The presiding judge or hearing officer may, in his or her discretion, determine the extent of the emeritus attorney's participation in any proceeding.

4. Supervision and Limitations.

A. An emeritus attorney must perform all activities authorized by this article under the direct supervision of a supervising attorney.

B. Emeritus attorneys permitted to perform services under this article are not, and shall not represent themselves to be, active members of the State Bar of Arizona licensed to practice law in this state.

C. The prohibition against compensation for the emeritus attorney contained in paragraph (e)(2)(B)(v) of this rule shall not prevent the approved legal assistance organization from reimbursing the emeritus attorney for actual expenses incurred while rendering services hereunder nor shall it prevent the approved legal assistance organization from making such charges for its services as it may otherwise properly charge. The approved legal assistance organization shall be entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.

5. Certification. Permission for an emeritus attorney to perform services under this article shall become effective upon filing with and approval by the clerk of the Court and the State Bar of Arizona of:

A. a certificate by an approved legal assistance organization stating that the emeritus attorney is currently associated with that legal assistance organization and that an attorney employed by or participating as a volunteer with that organization will assume the duties of the supervising attorney required hereunder;

B. a certification from the highest court or agency in the state, territory, or district in which the emeritus attorney previously has been licensed to practice law, certifying that the

emeritus attorney has fulfilled the requirements of active bar membership and has a clear disciplinary record as required by paragraph (e)(2)(B)(ii) of this rule; and

C. a sworn statement by the emeritus attorney that he or she:

i. has read and is familiar with the Rules of Professional Conduct and the Rules of the Supreme Court and statutes of the State of Arizona relating 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 Professional Conduct; and

iii. will neither ask for nor receive compensation of any kind for the legal services authorized hereunder.

6. *Withdrawal of Certification.*

A. Permission to perform services under this article shall cease immediately upon the filing with the clerk of the Court and the State Bar of Arizona of an appropriate notice as set forth below.

i. The approved legal assistance organization may file a notice stating that: (a) the emeritus attorney has ceased to be associated with the organization, which notice must be filed within five days after such association has ceased; or (b) that certification of such attorney is withdrawn. An approved legal assistance organization may withdraw certification at any time and it is not necessary that the notice state the cause for such withdrawal. A copy of the notice filed with the clerk of the Court and with the State Bar of Arizona shall be mailed by the organization to the emeritus attorney concerned.

ii. The Supreme Court of Arizona, in its discretion, at any time, may file a notice stating that permission to perform services under this article has been revoked. The clerk of the Court shall mail a copy of such notice to (a) the emeritus attorney involved, (b) the approved legal assistance organization to which he or she had been certified, and (c) the State Bar of Arizona.

B. If an emeritus attorney's certification is withdrawn for any reason, the supervising attorney shall immediately file a notice of such action before any court or tribunal in which the emeritus attorney was involved.

7. *Discipline.* In addition to any appropriate proceedings and discipline which may be imposed by the Court under these rules, the emeritus 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 such tribunal's orders in any matter in which the emeritus attorney has participated; and

B. withdrawal of the certification hereunder, with or without cause, by either the Court

or the approved legal assistance organization.

8. *Mandatory Continuing Legal Education.* Emeritus attorneys certified under paragraph (e)(5) hereof shall be exempt from the requirements of Rule 45, Mandatory Continuing Legal Education.

(f) *Attorneys Working Full Time 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 full time by an approved legal services organization in this State which 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 not-for-profit legal services organization that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters. A legal services organization must be approved as such by the Supreme Court of Arizona. To obtain approval, the organization shall file a petition with the clerk of the Court containing the following:

- A. a statement that it does not accept fees for services rendered from its clients;
- B. an explanation of the structure of the organization;
- C. disclosure of the major sources of funds used by the organization;
- D. the criteria used to determine potential clients' eligibility for legal and nonlegal services performed by the organization;
- E. a description of the types of legal and nonlegal 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 State Bar of Arizona, which shall file any comment it 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 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 full time 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 State Bar of Arizona, which shall file any objection to such application with the clerk of the Court within ten days after the date of receipt of such application. An attorney is not allowed to practice law under this rule until the applicant has been authorized to do so by order of the Court. A copy of the order authorizing the practice of law shall be sent by the clerk of the Court to the State Bar of Arizona.

3. *Expiration of Authorization.* Authorization to practice law under this section shall expire 24 months from the date of the order authorizing the applicant to practice law in the State of Arizona. If the applicant ceases full-time employment with the approved legal services organization before the 24-month period expires, an authorized representative of the organization shall, within five days of the date of termination of employment, file a notification of the termination with the clerk of the Court and the State Bar of Arizona, specifying the date of termination of full-time employment.

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 full time. The attorney shall not accept any compensation for such services except such salary as may be provided to him or her by the organization.

5. *Supervision.* An attorney authorized to practice under this section 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.

Rule 39. [Reserved] [The content of former Rule 39 (Emeritus Attorneys) is now located in Rule 38(e).]

Rule 40. [Reserved] [The content of former Rule 40 (Attorneys Employed by Legal Services Organizations) is now located in Rule 38(f).]

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E. Discipline and Disability Administration; General Provisions

Rule 46. Jurisdiction in Discipline and Disability Matters; Definitions

(a) [No change in text.]

(b) **Non-Members.** A non-member engaged in the practice of law in the State of Arizona or specially admitted to practice for a particular proceeding before any court in the State of Arizona, a non-lawyer permitted to appear in such capacity, or a foreign legal consultant as defined in Rule ~~33(f)~~ 38(b) submits himself or herself to the disciplinary and disability jurisdiction of this court in accordance with these rules.

(c)-(f) [No change in text.]

* * *

Rule 62. Summary Suspension by the Board of Governors of the State Bar

(a) **Grounds.** A member may be summarily suspended from the practice of law upon administrative grounds as provided in these rules, including the following:

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

5. *Failure of New Admittee to Complete Professionalism Course.* A new admittee who fails to 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, as required by Rule 34(h)(1), may be summarily suspended, provided that a notice by certified, return receipt mail of such non-compliance has been sent to the member, mailed to the member's last address of record in the state bar office at least thirty (30) days prior to such suspension.

(b)-(d) [No change in text.]

* * *

K. Reinstatement

Rule 64. Reinstatement; Eligibility

(a) **General Standard.** Except as provided in paragraph (e)(2) of this rule, in order to be reinstated to the active practice of law, a suspended or disbarred lawyer or a lawyer on disability inactive status must show by clear and convincing evidence that the lawyer has been rehabilitated and The board or the commission shall make a favorable recommendation to this court upon an application for reinstatement only when satisfied that the lawyer possesses the moral qualifications and knowledge of the law required for admission to practice law in this state in the first instance, and only by a resolution adopted by a majority of the entire board or commission. However, the requirements for reinstatement after summary suspension are as stated in paragraph (e) of this rule.

(b) Presumptive Disqualification. There shall be a presumption, rebuttable by clear and convincing evidence presented at the hearing, that a lawyer who has been convicted of a misdemeanor involving a serious crime or of any felony shall be disqualified for reinstatement. "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.

(c) Additional Requirements. If the applicant has been on disability inactive status or suspended for a period of five (5) years at the time the application is filed, or has been disbarred, in addition to other requirements of these rules relating to reinstatement, the applicant shall be required to apply for admission and pass the bar examination as required. The applicant shall pay the fees required of an applicant for original admission to the bar practice of law in addition to fees, costs and expenses required of all applicants for reinstatement.

(b)(d) Reinstatement After Disbarment. A lawyer who has been disbarred may apply for reinstatement, as set forth in Rule 65, not sooner than ninety (90) days prior to the fifth anniversary of the effective date of the disbarment, but may not be reinstated until after the fifth anniversary of the effective date of the disbarment.

(e)(e) Reinstatement After Suspension By the Court

1. [No change in text.]

2. *Six Months or Less.*

A. Affidavit. A lawyer who has been suspended for six (6) months or less may apply for reinstatement, within sixty (60) days after expiration of the period of suspension, by filing with the clerk of this court and the disciplinary clerk and by serving upon the state bar and disciplinary clerk, an affidavit stating that the lawyer has fully complied with the requirements of the suspension judgment or order, and has paid all required fees, costs and expenses. The lawyer need not show proof of rehabilitation.

B. Response. Within ten (10) days of service of the affidavit, or within the time period permitted by this court, the state bar may file and serve a response to the affidavit. If a response is filed, the matter shall be submitted to the court for its review and the member may not resume the practice of law until reinstated by order of this court. If no response is filed within the time for response, the state bar shall be deemed to consent to reinstatement, and the member may resume the practice of law upon order of this court which may be issued by the clerk of this court without further application. If an affidavit is not filed within sixty (60) days after expiration of the period of suspension the reinstatement procedure set forth in Rule 65 shall apply.

(d)(f) Reinstatement After Summary Suspension by the Board of Governors. The application of a member summarily suspended shall be filed within five-two years from the effective

date of the suspension and be accompanied by proof of cure of the grounds upon which the suspension order was entered and by payment equal to the amount of fees, and assessments, and administrative costs, if any, the applicant would have been required to pay had the applicant remained an active member to the date of the application, plus the one hundred dollar (\$100.00) reinstatement fee and any applicable delinquency or late fees. A timely filed ~~The~~ application shall be addressed to and be considered by the board. Upon verification of compliance the board shall enter an order of reinstatement. If an application is not filed within two years from the effective date of suspension, the reinstatement procedure set forth in Rule 65 shall apply.

~~(e) Proof of Rehabilitation. Reinstatement following summary suspension or suspension of six (6) months or less shall not require proof of rehabilitation. Reinstatement following suspension of more than six (6) months or disbarment shall require that proof of rehabilitation be demonstrated in a reinstatement proceeding. Such proof may include the status of any claims or judgments against the lawyer arising out of the lawyer's professional conduct.~~

Rule 65. Reinstatement; Application and Proceedings

~~(a) Application for Reinstatement Procedure.~~ Except as may otherwise be provided in Rules 63(i) and 64, a lawyer may be reinstated to active membership only as provided in this rule.

~~1. Payment Required. Every applicant for reinstatement shall pay an application fee, as set by the court, to the disciplinary clerk. As a prerequisite to filing and before investigation of the application, the disciplinary clerk shall receive verification, by certified copy of applicable records from the state bar, that the lawyer has paid in full any estimated cost of the investigation, together with any sums owing by the lawyer to the client security fund or due to prior discipline, disability or reinstatement proceedings. If the lawyer's payment is less than the actual cost of investigation, the lawyer shall be required to satisfy such deficiency before the application is reviewed by the commission. Any excess costs advanced shall be promptly refunded to the lawyer. Any subsequent costs or expenses incurred shall be paid before the lawyer is reinstated by the court. No reinstatement shall become effective until membership fees and other charges accruing after the filing of such application have been paid.~~

~~21. Application. The lawyer shall file with the disciplinary clerk an written application for reinstatement ~~in writing~~, in the form of a motion, verified by the lawyer, and accompanied by the appropriate filing fees and proofs of payment required by paragraph (a)(3) of this rule. The lawyer shall file with the application for reinstatement a written release or authorization to the hearing officer to obtain documents or information in the possession of any third party, including a physician, psychologist or psychiatrist. The application shall set forth fully and accurately the following information concerning the period of rehabilitation which, for the purpose of the application, shall be the time between the date of disbarment or suspension and the date of filing the application:~~

- ~~A. Name, age, residence and address of the lawyer;~~
- ~~B. Fthe offense or misconduct upon which the disbarment or suspension was based, together with the date of disbarment or suspension; The names and~~

~~addresses of all complaining witnesses in discipline proceedings that resulted in disbarment or suspension, and the name of the hearing officer before whom the discipline proceedings were heard, or of the trial judge, complaining witness and prosecuting attorney, if discipline was based upon conviction of a felony or serious misdemeanor.~~

C. ~~the~~ names and addresses of all complaining witnesses in discipline proceedings that resulted in disbarment or suspension, and the name of the hearing officer before whom the discipline proceedings were heard, or of the trial judge, complaining witness and prosecuting attorney, if discipline was based upon conviction of a felony or serious misdemeanor;

D. Aa detailed description of lawyer's occupation during the period of rehabilitation, with names and addresses of all partners, associates in business and employers, if any, and dates and duration of all such relations and employment;

E. Aa statement showing the approximate monthly earnings and other income of the lawyer, and the sources from which all such earnings and income were derived for the period of rehabilitation;

F. Aa statement showing all residences maintained during such period, with the names and addresses of landlords, if any;

G. Aa statement showing all financial obligations of applicant at date of filing of the application, together with the dates when such obligations were incurred, and the names and addresses of all creditors;

H. Aa statement covering the period of rehabilitation showing the dates, general nature and final disposition of every civil action in which the lawyer was either a plaintiff or defendant or in which the lawyer had or claimed an interest, together with the dates of filing pleadings, titles of courts and actions, and the names and addresses of parties, attorneys for such parties, the trial judge or judges, and of all witnesses who testified in the action or actions;

I. Aa statement covering the period of rehabilitation showing dates, general nature and ultimate disposition of every matter involving the arrest or prosecution of lawyer for any crime, whether felony or misdemeanor, together with the names and addresses of complaining witnesses, prosecutors and trial judges;

J. Aa statement showing whether or not any applications were made during the period of rehabilitation for a license requiring proof of good character for its procurement, and as to each such application, the dates, the name and address of the authority to whom it was addressed and the disposition thereof;

K. Aa statement covering the period of rehabilitation setting forth any procedure or inquiry concerning lawyer's standing as a member of any profession or organization, or holder of any license or office, which involved the censure, removal, suspension, revocation of license or discipline of the lawyer and, as to

each, the dates, facts and disposition thereof, and the name and address of the authority in possession of the record thereof;

L. ~~Aa~~ statement of any charges of fraud made or claimed against the lawyer during the period of rehabilitation, whether formal or informal, together with the dates, names and addresses of persons making such charges;

M. ~~Aa~~ concise statement of facts claimed to support readmission to the state bar, including facts showing the lawyer's rehabilitation; and-

N. if the lawyer has been on disability status, a statement setting forth the status of pending discipline matters, if any.

32. Documentation Supporting Application. In addition to the application, the lawyer shall ~~file~~ submit:

A. copies of the judgment of conviction, findings and judgment of the trial court and opinions of the appellate courts, or findings and recommendations of the hearing officer and commission, and decision, judgment or order of this court, as appropriate, upon which the lawyer was suspended or disbarred-;

B. ~~The lawyer shall also submit~~ copies of all prior applications for reinstatement filed on the lawyer's behalf, including all findings, decisions or orders entered;

C. copies of state and federal income tax returns from the period of disbarment, suspension, or disability; and

D. ~~will furnish~~ further information as requested by the hearing officer or eCommission.

3. Required Fees and Payments.

A. Application Fee. Every applicant for reinstatement shall pay an application fee, as set by the court, to the disciplinary clerk.

B. Cost of Investigation. As a prerequisite to filing and before investigation of the application, the applicant shall pay in full the estimated cost of the investigation. Verification of such payment in the form of an affidavit from the Lawyer Regulation Records Manager shall be submitted with the application. If the lawyer's payment is less than the actual cost of investigation, the lawyer shall be required to satisfy such deficiency before the application is reviewed by the court. Any excess costs advanced shall be promptly refunded to the lawyer. Any subsequent costs or expenses incurred shall be paid before the lawyer is reinstated by the court.

C. Amounts Owning to Client Security Fund. Prior to filing the application, the applicant shall also pay any sums owing by the lawyer to the client security

fund due to prior discipline, disability or reinstatement proceedings. Verification of such payment in the form of an affidavit from the Administrator of the Client Protection Fund must accompany the application.

D. Membership Fees and Other Charges. No reinstatement shall become effective until membership fees and other charges accruing after the filing of such application have been paid.

4. [No change in text.]

5. Withdrawal of Application. An applicant may withdraw an application any time before the filing of the hearing officer's report.

(b) Reinstatement Proceedings.

1. *Hearing.*

A. Assignment of Hearing Officer; Service on Bar Counsel. Upon receipt of the application, the disciplinary clerk shall promptly assign the matter and forward the application to a hearing officer, and serve a copy on bar counsel.

B. Notice of Hearing; Continuance. The hearing officer shall hold a hearing within ~~thirty (30)~~ one hundred twenty (120) days of ~~receipt of the filing of the~~ application and shall notify the parties of the time and date thereof. Upon request of a party or upon the hearing officer's own motion, for good cause shown, the hearing officer may continue the hearing.

C. Rules Governing Hearing. The hearing shall proceed in accordance with the rules governing discipline proceedings.

D. Duty of Bar Counsel. At the conclusion of the hearing, bar counsel shall provide the hearing officer with a recommendation as to whether or not the lawyer should be reinstated.

2. [No change in text.]

3. *Hearing Officer Report.* Within thirty (30) days after receiving the transcript, whether written, recorded, or in electronic format, the hearing officer shall file a report containing findings of fact and a recommendation concerning reinstatement with the commission, which shall include a record of the proceedings. The hearing officer shall serve a copy of the report on the parties.

4. *Commission Review.* The commission shall promptly review the report of the hearing officer and the record, and shall calendar the matter for oral argument before the commission. The commission will thereafter file with the court its own report containing findings of fact and recommendation concerning reinstatement, together with the record. The commission shall serve a copy of the report on the parties.

5. [No change in text.]