

Hon. Ann A. Scott Timmer, Chair  
Attorney Regulation Advisory Committee  
1501 W. Washington St.  
Phoenix, AZ 85007

**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:	)	
	)	Supreme Court No. R-__-____
PETITION TO AMEND RULES	)	
38 and 39 and ABROGATE RULE	)	
40, RULES OF THE	)	
ARIZONA SUPREME COURT	)	
	)	Petition to Amend Rules 38 and
	)	39 and Abrogate Rule 40, Rules
	)	of the Arizona Supreme Court
_____	)	

Pursuant to Rule 28, Rules of the Arizona Supreme Court, Justice Ann A. Scott Timmer, Chair of the Attorney Regulation Advisory Committee, respectfully petitions this Court to adopt amendments to Rules 38 and 39 and abrogate Rule 40, Rules of the Arizona Supreme Court.

**I. Background and Purpose of the Proposed Rule Amendments**

Rules 38, 39, and 40 provide exceptions to the usual admission process for lawyers. Rule 38 provides a lengthy list of exceptions to the standard examinations and admission process. Rule 39 sets out the procedures for admission pro hac vice. Rule 40 permits the temporary practice of law for non-member lawyers following a major disaster. This petition proposes to reorganize these various exceptions in a

more user-friendly way. Over the years, the list of exceptions in Rule 38 has expanded. With the addition of admission on motion and admission by transfer of uniform bar examination scores, and the narrowing of the definition of the unauthorized practice of law in ER 5.5, some of the exceptions to the usual admissions process are no longer needed or should be modified to reflect these changes. In addition, the petition updates the certification process for some of the exceptions to make the process more streamlined and the requirements consistent.

The petition proposes dividing the exceptions into two rules. Rule 38 comprises the more permanent exceptions: in-house counsel; foreign legal consultants; full-time and clinical law professors; and approved legal services organizations and certification of *pro bono* counsel. Rule 39 contains the more temporary admissions: *pro hac vice*; practice pending admission; law student practice; and military spouse certification.

The petition also removes certain rules. Rule 40, permitting the temporary practice of law for non-member lawyers following a major disaster, has been abrogated as it is no longer necessary after the 2016 amendments to ER 5.5 that allowed non-members to provide legal services on a temporary basis. In addition, Rule 38(e), permitting non-Arizona attorneys employed by indigent defense offices in small counties to practice, is no longer necessary considering the newer paths to admission: admission on motion and admission upon transfer of uniform bar

examination score.

The petition also attempted to use a uniform format for all the exceptions to facilitate easy reference to the requirements.

## **II. Proposed Amendments**

### **1. Rule 38 Certifications and Limited Admissions to Practice Law**

#### **(a) In-house counsel**

The contents of current Rule 38(a) have been reorganized under the more uniform format. The following are the more substantive changes:

- Removed language in current Rule 38(a)(1) stating that the employer must engage in business “other than the practice of law or provision of legal services.” This amendment was based on the suggestion that this exception should not prohibit lawyers from practicing as an in-house counsel for a law firm or other legal office. This change would allow out-of-state lawyers to register as in-house counsel and work for a law practice as an in-house counsel with all rights and restrictions provided in the rules.
- The proposed rule creates a new Foreign Lawyer Eligibility paragraph to separate non-member-U.S.-attorney applicants from non-member-foreign-attorney applicants. Rule 38(a)(2). The intent was to clarify eligibility for the different types of non-members.
- Removed language in current Rule 38(a)(4) that has become obsolete with

time, which stated “An attorney who is employed by an eligible organization as in-house counsel on the effective date of this rule shall apply for a Registration Certificate within one hundred and eighty (180) days of that effective date.” The proposed revised draft requires all lawyers to apply for a registration certificate within ninety (90) days of commencement of employment. Rule 38(a)(3).

- Added a “Subsequent Admission” section. If an attorney registered under this rule is subsequently admitted to the practice of law in Arizona, that attorney’s in-house counsel registration shall be superseded by the Arizona license to practice law. Rule 38(a)(10).

**(b) Foreign Legal Consultant.**

The contents of current Rule 38(b) have been reorganized under the more uniform format. The following are the more substantive changes:

- Currently, Rule 38(b) requires that the applicant have been admitted to practice in a foreign jurisdiction “for a period of not less than five of the seven years” immediately preceding the application. The petition amends this time period to conform to the ABA Model Rule for licensing foreign legal consultants to “not less than five years.” Rule 38(b)(1)(A).
- Current Rule 38(b) requires an applicant to have engaged in the practice of law for five of the seven years immediately preceding the application. The

petition amends this time period to conform to the time period applied to applicants for admission on motion: “three of the five years immediately preceding” the application. Rule 38(b)(1)(B).

- The petition deletes the phrase “or political subdivision of a foreign country” in current Rule 38(b)(2)(A) to conform to the ABA Model Rule.
- The petition deletes the age requirement (21) in current Rule 38(b)(2)(E) to conform to the ABA Model Rule.
- The petition adds the requirement that the foreign legal consultant receive a registration number and pay an annual renewal fee. Rule 38(b)(8).

**(c) Law Professor Certification.**

The petition combines current Rule 38(c), Full-Time Law School Faculty Members, and Rule 38(d), relating to Clinical Law Professors, and treats them the same for this exception to the admission requirements. The contents of both rules have been organized under the uniform format. The following are more substantive changes:

- The petition requires the law professor to pay annual fees and comply with CLE requirements. Rule 38(c)(2) and (7).
- Clinical law professors will undergo a more formal application process through the Committee on Character and Fitness. Rule 38(c)(2).

- Current Rule 38(c)(5) sets out limitations on the number of hours a full-time faculty member can practice and requires the dean of the law school to “annually advise the executive director of the state bar” that the faculty members are in compliance with university rules regarding practice. The petition amends the rule to remove any limitations on the hours of practice, believing that this restriction could be addressed by each law school. The petition also removes any reporting requirement.

**(d) Approved Legal Service Organizations and Certification of *Pro Bono* Counsel.**

This proposed rule combines the requirements of current Rules 38(e), attorneys volunteering with an approved legal services organization, and 38(f), attorneys working with an approved legal services organization. The proposed rule also incorporates some of the language previously used in those subsections, as well as some language utilized in current Rule 204.6, Colorado Rules of Civil Procedure. The following are more substantive changes to the application process for an approved legal service organization:

- The petition to apply for approved legal service organization (LSO) status is filed with the Clerk of the Court. A copy of the petition is also provided to the State Bar. The current rule required Chief Bar Counsel to file a comment

on the petition. The draft rule provides that Chief Bar Counsel may within 10 days file a comment with the Clerk. Rule 38(d)(1)(B).

- The LSO is required in its petition to identify those lawyers it directly employs to provide legal services and those lawyers who provide volunteer pro bono services under its auspices and supervision. Rule 38(d)(1)(A)(vi).
- The LSO is required to file an annual notice with the Clerk, updating its list of employed and volunteer lawyers, and certifying that it has provided appropriate training and continuing legal education to its volunteer *pro bono* lawyers. Rule 38(d)(1)(C).
- In the event of non-compliance, either the Supreme Court or the State Bar may require the LSO to show cause as to whether its approved status, and the certification of volunteer *pro bono* counsel working under its auspices and supervision, should be revoked. Rule 38(d)(1)(E).

The following are the substantive provisions regarding the qualifications for Certification as *Pro Bono* Counsel:

- “*Pro Bono* Services” are defined. Rule 38(d)(2).
- The categories of lawyers who may qualify for *pro bono* certification status are identified. Rule 38(d)(2)(A)(i)-(iv).

- The application to become certified as *pro bono* counsel is submitted by the LSO that is providing supervision, training and continuing legal education. Rule 38(d)(2)(B).
- The proposed rule exempts retired, inactive and out-of-state volunteer *pro bono* counsel from paying SBA annual bar dues if they comply with the provisions of proposed subsection (H), including providing an avowal they have provided a minimum of ten (10) hours of pro bono legal services.
- A lawyer certified under this rule is assigned a certification number, and it must be provided in any pleading signed by that lawyer. For appearances made in court without a written pleading, the lawyer must advise the court of the lawyer's certification number. Rule 38(d)(2)(I).
- Volunteer *pro bono* counsel need not comply with the CLE requirements found in Rule 45; instead, the obligation to provide appropriate continuing legal education to volunteer *pro bono* counsel is expressly placed on the approved legal service organization.
- Lawyers who are directly employed with legal service organizations must still comply with the Rule 45 CLE requirements. Rule 38(d)(2)(H)(iv).
- Circumstances under which the volunteer *pro bono* certification will be automatically terminated are identified. Rule 38(d)(2)(F).

## **2. Rule 39 Temporary Authorizations to Practice Law**



**(a) Pro Hac Vice.**

The contents of the rule have been reorganized under the more uniform format.

The following are the more substantive changes:

- The draft adds language to include foreign lawyer eligibility to apply for pro hac vice (PHV) admission. The draft rule allows for a member of a bar of another state or non-U.S. jurisdiction to apply for PHV admission.
- The draft removes the following provision in current Rule 39(a):  
“Except for non-members authorized pursuant to Rule 38(a)(10) or otherwise eligible, 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.” The draft now allows lawyers residing in Arizona, practicing under the authority of another rule, like ER 5.5, to apply for PHV admission. It also is congruent with Rule 38(b) which allows foreign legal consultants to reside in Arizona and apply to appear PHV.
- The draft removed language in current Rule 39(d) enumerating what needs to be in the verified application. Because the application must be approved by the Court, there did not seem to be a need to describe the entire contents of the application in the Rule.

**(b) Practice Pending Admission**

The contents of current Rule 38(h) have been reorganized under the more uniform format. The only substantive change was to expand the authorization to practice to those applicants seeking admission by transfer of uniform bar examination score and by examination.

**(c) Law Student Practice**

As noted above, the petition combined the Clinical Law Professor certification with the Full-Time Law Faculty certification, leaving this subsection to deal exclusively with law student practice. The contents of current Rule 38(d) relating to law student practice were organized under the uniform format. The only substantive change was the requirement that the Clerk issue a notice of certification and send a copy of the certification to the student, the law school, the supervising attorney, and the State Bar. Rule 39(c)(3)(G).

**(d) Military Spouse Certification**

The contents of current Rule 38(i) were reorganized under the uniform format. No substantive changes were made.

**3. Rule 40. Provision of Legal Services Following Determination of Major Disaster**

The contents of this rule will be abrogated. The rule can be reserved.

**4. Current Rule 38(e): Attorneys Employed by Indigent Defense Offices.**

This exception was added in 2009 to allow a non-member attorney employed by an indigent defense office in a smaller county to practice law. Since 2009, only one attorney has sought authorization to practice under this exception with the Mohave County Public Defender. The attorney was later admitted on motion in Arizona. Because it was utilized by only one attorney in the 10 years it has existed, and with the advent of admission on motion and admission upon transfer of uniform bar examination score, this exception no longer appears to be necessary. Consequently, the petition does not include this exception.

For the reasons set forth above, ARC requests that this Court amend Rule 38 and 39 and abrogate Rule 40 as set forth in the Appendix.

RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of January, 2019.

By \_\_\_\_\_  
Justice Ann. A. Scott Timmer  
Chair, Attorney Regulation Advisory  
Committee  
1501 W. Washington St.  
Phoenix, AZ 85007



## APPENDIX

### Rule 38. Certifications and Limited Admissions to Practice Law

- (a) **In-house Counsel**
  - (b) **Foreign Legal Consultant**
  - (c) **Law Professor Certification**
  - (d) **Approved Legal Services Organizations and Certification of *Pro Bono* Counsel.**
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#### (a) **In-house Counsel**

- (1) *General Statement and Eligibility.* As used in this rule, “in-house counsel” shall refer to an attorney who is employed within the State of Arizona as in-house counsel or a related position for a single for-profit or non-profit corporation, association, or other organizational entity, which can include its parents, subsidiaries and/or affiliates, the business of which is lawful. A lawyer who is not a member of the State Bar of Arizona who has been admitted to practice law in another jurisdiction may apply for an Arizona Certificate of Registration of In-House Counsel if all of the following conditions are met:
  - (A) The applicant holds a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;
  - (B) The applicant and is currently a member in good standing of the bar of another state or the District of Columbia, or eligible to practice before the highest court in any state, territory or insular possession of the United States; and
  - (C) The applicant is employed within the State of Arizona as in-house counsel, as hereinabove defined, may apply for an Arizona Certificate of Registration of In-House Counsel (“Registration Certificate”).
- (2) *Foreign Lawyer Eligibility.* A lawyer employed as in-house counsel within the State of Arizona who is admitted to practice and a member in good standing in a jurisdiction outside of the United States, in accordance with the standards and requirements generally applicable to the practice of law in that jurisdiction, may also apply for a Registration Certificate.
- (3) *Filing Requirements.* Any attorney who commences employment by an eligible organization as in-house counsel shall apply for a Registration

Certificate within ninety (90) days of the date of commencement of employment.

(A) An applicant for a Registration Certificate shall:

- (i) file with the State Bar of Arizona its form of verified application for an Arizona Certificate of Registration of In-House Counsel;
- (ii) attach to the verified application a certificate from the state bar or from the clerk of the highest admitting court of each state, territory, or insular possession of the United States, or foreign jurisdiction, in which the applicant has been admitted to practice law certifying the current status of the applicant's membership or eligibility to practice therein;
- (iii) certify that the applicant has read and is familiar with the Arizona Rules of Professional Conduct;
- (iv) pay an application fee in an amount established by the Supreme Court; and
- (v) submit evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j).

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

(C) An applicant may petition the Arizona Supreme Court for a waiver of any of the requirements for registration under this rule.

(4) *Scope of Authority.* Except as provided in this rule, the holder of a valid and current Registration Certificate shall be entitled to the benefits and responsibilities of active members of the State Bar of Arizona. A Registration Certificate shall not authorize the registrant to provide legal services to any person or entity except when providing legal services to the one for which the registrant serves as in-house counsel, or its parents, subsidiaries or affiliates, or when providing legal services under Rule 38(d).

- (5) *Discipline and Disability Jurisdiction.* The holder of a Registration Certificate 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.
- (6) *Termination of Certification.* A lawyer's authority to practice as in-house counsel under a Registration Certificate issued pursuant to this rule shall be suspended when the lawyer is suspended or disbarred for disciplinary reasons in any jurisdiction of the United States, or by any federal court or agency, or by any foreign nation before which that lawyer has been admitted to practice.
- (7) *Registration, Fees and CLE Requirements.*
  - (A) On or before February 1 of each year, in-house counsel registered pursuant to the provisions of this rule, who continues to be employed as in-house counsel within the State of Arizona, shall renew the Registration Certificate and pay a renewal fee set by the Supreme Court.
  - (B) An attorney registered pursuant to this rule who has become employed by a different eligible entity but continues to meet all the requirements of this rule, must apply for the issuance of an amended Registration Certificate to reflect that change.
  - (C) A lawyer who has been issued a Registration Certificate under this rule shall satisfy the continuing legal education requirements, if any, of at least one of the other state(s) or jurisdiction(s) in which that lawyer is admitted to practice. If not subject to mandatory continuing legal education requirement in the other state(s) or jurisdiction(s), the lawyer shall comply with Arizona's continuing legal education requirements. On or before September 15 of each calendar year, every registered in-house counsel shall file an affidavit demonstrating full compliance with this rule.
- (8) *Reporting Requirements.* Each lawyer issued a Registration Certificate shall report to the State Bar of Arizona, within thirty (30) days, any change in bar membership status in any jurisdiction of the United States or in any foreign jurisdiction where the applicant has been admitted to the practice of law, or the imposition of any disciplinary sanction by any federal or state court or agency before which the applicant has been admitted to practice, or in any state in which the lawyer has rendered legal services while temporarily authorized under any rule or by admission pro hac vice.

If there is a change in circumstances, and an attorney holding a current Registration Certificate becomes ineligible for such Certificate, the attorney

shall notify the State Bar of Arizona of such change in writing within thirty (30) days.

- (9) *Pro Hac Vice Admission.* In providing legal services to the lawyer's employer, a lawyer who has been issued a Registration Certificate under this rule may also secure admission pro hac vice in Arizona to provide the services authorized in the preceding paragraph by complying with the requirements of Rule 39 of these rules. A lawyer who has been issued a Registration Certificate under this rule may provide services under Rule 38(d) without securing admission pro hac vice.

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

- (10) *Subsequent Admission.* If an attorney registered under this rule is subsequently admitted to the practice of law in Arizona, that attorney's in-house counsel registration shall be superseded by the Arizona license to practice law.

**(b) Foreign Legal Consultant**

- (1) *General Statement and Eligibility.* 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 and has been issued a certificate of registration as a foreign legal consultant. To be issued a certificate of registration as a foreign legal consultant, an applicant must:
- (A) 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 for not less than five years immediately preceding the date of the application;
  - (B) have engaged in the practice of law in such country or 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 for at least three of the five years immediately preceding the date of the application;
  - (C) possess the character and fitness required of all applicants for admission to the practice of law in Arizona;
  - (D) intend to practice as a registered foreign legal consultant in Arizona and to maintain an office in Arizona for that purpose; and



- (E) possess the necessary documentation evidencing compliance with the immigration laws of the United States;
- (2) *Filing Requirements.* An applicant must file an application for foreign legal consultant registration with the Committee on Character and Fitness on a form supplied by the Committee. An application must include all of the following:
- (A) an application fee as established by the Supreme Court;
  - (B) a character report and character investigation fee as established by the Supreme Court;
  - (C) a certificate from the professional body or public authority having jurisdiction over professional discipline in each foreign county in which the applicant is admitted to practice, certifying the applicant's admission to practice, date of admission and good standing as an attorney or counselor at law or the equivalent;
  - (D) a letter of recommendation from one of the members of the executive body of each professional body or public authority referenced in (2)(C) or from one of the judge of the highest law court or court of original jurisdiction in each foreign county in which the applicant is admitted;
  - (E) duly authenticated English translations of the certificate required by (2)(C) and the letter of recommendation required by (2)(D), if they are not in English; and
  - (F) other evidence of applicant's educational and professional qualifications, character and fitness, and satisfaction of the conditions of (1) of this rule as the Committee on Character and Fitness may require. If strict compliance with the provisions of (C) 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 waive or vary the application of those provisions and permit the applicant to furnish other evidence.
- (3) *Scope of Authority.*
- (A) *Scope of Practice.* A person registered to practice as a foreign legal consultant under this rule may render legal services in Arizona 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 39;

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

- (A) have the right, in the same manner and to the same extent as members of the state bar, to:
    - (i) employ one or more members of the state bar;
    - (ii) be employed by one or more members of the state bar or by any partnership or professional corporation that includes members of the state bar or that maintains an office in this state; or
    - (iii) be a partner in any partnership or shareholder in any professional corporation that includes members of the state bar or that maintains an office in this state;
  - (B) enjoy and be subject to all rights and obligations with respect to attorney-client privilege, work-product privilege, and other professional privileges in the same manner and to the same extent as members of the state bar; and
  - (C) 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.
- (5) *Discipline and Disability Jurisdiction.* A person registered as a foreign legal consultant under this rule shall be subject to professional discipline and disability proceedings in the same manner and to the same extent as members of the state bar.
- (6) *Termination of Registration.* If the Supreme Court determines that a person registered as a foreign legal consultant under this rule no longer meets the conditions for registration, it may summarily terminate the foreign legal consultant's registration. Upon termination of the registration, the person shall immediately cease acting as a foreign legal consultant, notify in writing all clients in pending matters, and opposing counsel in pending matters, of the termination of the person's authority to act as a foreign legal consultant, and take all necessary steps to protect the interests of clients.
- (7) *Registration and Fees.* A person registered as a foreign legal consultant must renew his or her registration and pay a renewal fee set the Supreme Court on or before February 1 of each year.
- (8) *Registration Number.* A person registered as a foreign legal consultant shall be assigned a registration number, which will be used to identify that person's registration status in Arizona. Any pleading signed by the foreign legal consultant must include the person's registration number.

- (9) *Subsequent Attorney Admission.* If a person registered as a foreign legal consultant in Arizona is subsequently admitted to the practice of law in Arizona, that person's foreign legal consultant registration will be superseded by the Arizona license to practice law.

**(c) Full-time and Clinical Law Professors**

- (1) *General Statement and Eligibility.* The Supreme Court may certify a law professor who has been admitted to practice law in another jurisdiction in the United States to practice law in Arizona if all the following conditions are met:
- (A) the applicant is a graduate with a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of the applicant's graduation;
  - (B) the applicant is employed full-time as a faculty member at a law school in Arizona which is provisionally or fully approved by the American Bar Association;
  - (C) the applicant is a member in good standing of the bar of all courts and jurisdictions in which the applicant is admitted to practice;
  - (D) the applicant is not currently subject to an order of attorney discipline or the subject of a pending formal disciplinary or disability proceeding in any jurisdiction; and
  - (E) the applicant possesses the character and fitness required of all applicants for admission to the practice of law in Arizona.
- (2) *Filing Requirements.* An applicant must submit an application for law professor certification with the Committee on Character and Fitness on a form supplied by the Committee. The application must include all of the following:
- (A) an application fee as established by the Supreme Court;
  - (B) a character report and character investigation fee as established by the Supreme Court;
  - (C) a certification of employment by the law school;
  - (D) a certificate of good standing from all courts and jurisdictions in which the applicant is admitted to practice; and
  - (E) evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j).

If the Committee determines that the applicant possesses the character and fitness required of other applicants for admission, it shall recommend to the Court the applicant's certification to practice law. The applicant may not act as

counsel for a client until certified under this rule by order of the Court. A copy of the order certifying the attorney will be sent by the Clerk to the Chief Bar Counsel.

- (3) *Scope of Authority.* Except as provided in this rule, an attorney certified under this rule shall be entitled to all rights and privileges and subject to all duties, obligations, and responsibilities applicable to licensed Arizona attorneys for the period of authorized practice.
- (4) *Discipline and Disability Jurisdiction.* An attorney certified under this rule shall be subject to the Arizona Rules of Professional Conduct and attorney discipline and disability proceedings in the same manner and to the same extent as members of the state bar.
- (5) *Termination of Certification.* Certification under this rule will automatically terminate when the attorney:
  - (A) no longer holds full-time status as a law professor at the Arizona law school; or
  - (B) is disciplinarily suspended or disbarred or placed on disability inactive status in any jurisdiction, court, or agency before which the attorney is admitted.

The attorney admitted under this rule must notify the State Bar of any such change of status within thirty days of the change.

- (6) *Action Required after Termination of Certification.* Upon termination of certification under subsection 5, within thirty days the attorney must:
  - (A) notify in writing all clients in pending matters, and co-counsel and opposing counsel in pending litigation, of the termination of the attorney's authority to practice law in Arizona;
  - (B) decline any new representation that would require the attorney to be admitted to practice in Arizona; and
  - (C) take all other necessary steps to protect the interests of clients.
- (7) *Registration, Fees & CLE.* An attorney certified under this rule must pay annual registration fees as required under Rule 32 and comply with mandatory legal education requirements under Rule 45.
- (8) *Registration number.* An attorney certified under this rule shall be assigned a registration number, which shall be used to identify that attorney's status in Arizona in accordance with applicable rules of procedure.
- (9) *Subsequent Attorney Admission.* If an attorney certified under this rule is subsequently admitted to the practice of law in Arizona, the attorney's law

professor certification will be superseded by the Arizona license to practice law.

**(d) Approved Legal Services Organizations and Certification of *Pro Bono* Counsel.**

(1) *Approved Legal Service Organizations.* An “approved legal services organization” is a non-profit legal entity that has as one of its primary purposes the providing of free civil legal assistance to low income individuals.

(A) *Filing Requirements.* To qualify as an approved legal services organization, an entity must first file a petition with the Clerk of the Arizona Supreme Court, and a copy of the petition with the Chief Bar Counsel of the State Bar of Arizona. The petition must contain the following information:

- (i) A statement that it does not accept fees for services rendered to its clients;
- (ii) An explanation of the structure of the organization;
- (iii) Disclosure of the major sources of funds used by the organization;
- (iv) The criteria used to determine potential clients’ eligibility for legal and non-legal services performed by the organization;
- (v) A description of the types of legal services provided by the organization;
- (vi) The names of all attorneys who are employed by the organization, or who regularly or periodically provide volunteer legal services for clients under the auspices and supervision of the organization; and
- (vii) The existence and extent of malpractice insurance that will cover attorneys authorized to practice under Rule 38(d)(2).

(B) *State Bar comment.* The State Bar of Arizona, through its Chief Bar Counsel or other authorized representative, may, within ten days of receipt, file a comment on the petition with the Clerk.

- (C) *Annual Notice to Court.* On or before February 1 of each year, the organization shall file a notice with the Clerk and a copy with the State Bar, providing updated information, including a current list of employed and volunteer lawyers certified under this rule, and certifying that the organization has provided, and will insure that volunteer *pro bono* lawyers providing services under its auspices and supervision have completed, regular and appropriate training and continuing legal education. The State Bar, through its Chief Bar Counsel or other authorized representative, may, within ten days of receipt, file a comment on the organization's annual notice with the Clerk.
  - (D) *Scope of Authority.* A legal services organization is not approved until an administrative order confirming such approval is entered by the Court. A copy of the order approving the legal services organization, and certifying the volunteer *pro bono* lawyers listed by the legal services organization, will be sent by the Clerk to the Chief Bar Counsel.
  - (E) *Termination of Authorization.* In the event of non-compliance with these provisions, the Court *sua sponte*, or on application by the State Bar, may order the legal services organization to show cause as to whether its approved status, and the *pro bono* certification of lawyers working under its auspices and supervision, should be revoked.
- (2) *Certification of Pro Bono Counsel.* "Pro bono services" are civil legal services provided without charge to low income clients. These services may be provided by (1) attorneys licensed to practice law in Arizona; (2) attorneys not licensed to practice in Arizona, but directly employed and certified as *pro bono* counsel by an approved legal services organization; and (3) volunteer lawyers duly certified as *pro bono* counsel, as provided in this rule.
- (A) *Eligibility.* The Supreme Court may certify attorneys not otherwise authorized to practice law in Arizona to provide legal services under the auspices and supervision of an approved, non-profit legal services organization, as more fully described in Rule 38(d)(1). To be certified, the attorney must be one of the following:
    - (i) *An attorney, including a retired attorney, admitted to practice in Arizona who:*

- (a) Has practiced law for at least five years, but is now on inactive or retired status;
- (b) Is a member in good standing of the bar of all courts and jurisdictions in which he or she has been admitted to practice;
- (c) Has not been disciplined for professional misconduct during the last five years, and has no pending disciplinary or disability proceeding; and
- (d) Limits his or her practice to acting as *pro bono* counsel as set forth in this rule and, notwithstanding the reduced fee provisions of Ethical Rule 6.1(a), will not receive or expect compensation or other direct or indirect pecuniary gain for the legal services rendered; or
  - (ii) *An out of state attorney domiciled in Arizona but not admitted to practice law in Arizona, who:*
    - (a) Has been licensed to practice law for at least five years and is on active, inactive or equivalent status in another jurisdiction;
    - (b) Is a member in good standing of the bar of all courts and jurisdictions in which he or she is admitted to practice;
    - (c) Has not been disciplined for professional misconduct during the last five years and has no pending formal disciplinary or disability proceeding;
    - (d) Has successfully completed the course on Arizona law described in Rule 34(j);
    - (e) Has read and agrees to be subject to the Arizona Rules of Professional Conduct; and
    - (f) Limits his or her practice to acting as *pro bono* counsel as set forth in this rule and, notwithstanding the reduced fee provisions of Ethical Rule 6.1(a), will not receive or expect compensation or other direct or indirect pecuniary gain for the legal services rendered; or



(iii) *An attorney, either domiciled in Arizona or outside Arizona, who is employed part-time or full-time by an approved legal services organization in this state, and who:*

- (a) Has been licensed to practice law for at least two years, and is a member in good standing of the bar of all courts or jurisdictions in which he or she is admitted to practice;
- (b) Has not been disciplined for professional misconduct in the last five years and has no pending formal disciplinary or disability proceeding;
- (c) Has successfully completed the course on Arizona law described in Rule 34(j);
- (d) Has read and agrees to be subject to the Arizona Rules of Professional Conduct; and
- (e) Limits his or her practice to acting as *pro bono* counsel as set forth in this rule; or

(iv) *An attorney, not licensed to practice in Arizona, but who is duly registered as In-House Counsel pursuant to Rule 38(a), and provides pro bono legal services under the auspices and supervision of an approved legal services organization, pursuant to Rule 38(d)(1).*

(B) *Filing Requirements.* The approved legal services organization under which a lawyer is to provide *pro bono* legal services shall file an initial application with the Clerk listing those lawyers it seeks to qualify for *pro bono* counsel certification. For each such lawyer, the application shall include:

- (i) A certificate from each of the highest courts or agencies in the state, territory or district in which the applicant is presently licensed to practice law, documenting that the applicant is a member in good standing of all courts and jurisdictions in which he or she has been admitted to practice, and has no disciplinary history within the last five years or any pending discipline or disability proceeding. An applicant who is registered as In-House Counsel pursuant to Rule 38 (a) shall

fulfill this requirement by providing a copy of his or her current Arizona Certification of Registration of In-House Counsel;

- (ii) An avowal by the approved legal services organization that the applicant is employed by or is an unpaid volunteer providing *pro bono* legal services under the auspices of the organization;
  - (iii) An avowal from the applicant certifying he or she qualifies under and agrees to the provisions of Rule 38(d)(2)(A).
- (C) *Scope of Authority.* An attorney certified and registered under this rule has the authority to act as *pro bono* counsel for clients as defined in this rule. The attorney may not act as counsel for a client until certified under this rule by order of the Court.
- (D) *Recovery of Attorneys' Fees and Costs.* This rule does not preclude an approved legal services organization from receiving court-awarded attorneys' fees for representation provided by certified *pro bono* counsel, and shall not preclude certified *pro bono* counsel from receiving reimbursement for otherwise recoverable costs, but not including attorneys' fees, incurred in representing a *pro bono* client.
- (E) *Discipline and Disability Jurisdiction.* An attorney certified under this rule is subject to the Arizona Rules of Professional Conduct. In addition to the proceedings and forms of discipline identified in those rules, the attorney may also be enjoined from further practice of law in Arizona.
- (F) *Termination of Certification.* Certification under this rule shall automatically terminate when:
- (i) An attorney employed by an approved legal services organization ceases working for that organization and is not employed by another approved legal services organization;
  - (ii) The approved legal services organization with which the attorney is associated fails to file the annual supplemental statement required in Rule 38(d)(1)(C), or fails to identify the attorney in that filing;

- (iii) The attorney is suspended or disbarred or placed on disability inactive status in any jurisdiction, court or agency before which the attorney is admitted;
  - (iv) The attorney is suspended in any jurisdiction for failure to pay child support or failure to cooperate in a disciplinary matter; or
  - (v) The attorney fails to complete the dues statement or pay the prior year's attorney registration fees as required in Rule 38(d)(2)(H)(i) or (ii).
- (G) *Notice of change of status.* The approved legal services organization shall notify the Clerk of the Arizona Supreme Court in writing of any change of status described in Rule 38(d)(2) (F) within 28 days of such change.
- (H) *Registration, Fees and CLE.*
- (i) An otherwise retired or inactive attorney certified under this rule shall not be required to pay an annual registration fee if the attorney has provided ten (10) hours of *pro bono* legal services under this rule within the prior twelve-month period. To be exempt from paying an annual registration fee, the attorney shall complete a dues statement provided by the State Bar of Arizona on or before February 1, identifying the approved legal services organization(s), as described in this rule, for which the attorney has volunteered in the prior twelve-month period, and avowing that he or she has provided ten (10) hours of *pro bono* services during that period and remains qualified for such waiver and for continuing certification as *pro bono* counsel under this rule.
  - (ii) An attorney who has not provided at least ten (10) hours of *pro bono* legal services under this rule within the prior twelve-month period but who wishes to remain certified as *pro bono* counsel must pay the registration fee that was applicable in the prior calendar year for registered inactive or retired attorneys, as appropriate, pursuant to the fee schedule established by the Court.

- (iii) Failure of an attorney certified under this rule to complete the State Bar's dues statement, as described above, or to pay the prior year's inactive attorney registration fees by February 1 of each year, shall automatically terminate that lawyer's status as certified *pro bono* counsel and result in suspension of the attorney's Arizona license, if applicable.
  - (iv) Attorneys directly employed by an approved legal services organization must comply with the Mandatory Continuing Legal Education requirements of Rule 45.
- (I) *Certification Number.* An attorney certified under this rule shall be assigned a certification number by the State Bar of Arizona, which shall be used to identify that attorney's authorization to practice in Arizona. Any pleading signed by an attorney authorized under this rule shall include the attorney's certification number. Whenever an initial appearance is made in court without a written pleading, the attorney shall advise the court of the attorney's certification number.
- (J) *Subsequent Attorney Admission.* If an Arizona attorney certified under this rule subsequently changes his or her status to active, that attorney's *pro bono* counsel certification shall be terminated. If an attorney licensed in another jurisdiction but certified to practice in Arizona under this rule is subsequently admitted to the practice of law in Arizona, that attorney's *pro bono* counsel certification shall be superseded by the Arizona license to practice law.

## APPENDIX

### Rule 39. Temporary Authorizations to Practice Law

- (a) Pro Hac Vice**
  - (b) Practice Pending Admission**
  - (c) Law Student Practice**
  - (d) Military Spouse Certification**
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#### **(a) Pro Hac Vice**

(1) *General Statement and 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 non-U.S. jurisdiction, and eligible to practice before the highest court in any state, territory or insular possession of the United States or foreign jurisdiction (hereinafter called a non-member attorney) may appear as counsel pro hac vice in any case before any state or local court, board or administrative agency in the State of Arizona upon compliance with this rule:

(2) In order to appear as counsel in any matter pending before a court, board, or administrative agency in the State of Arizona, a non-member attorney shall:

- (A) File with the State Bar of Arizona an original and one copy of a verified application; and the verified application required by this rule shall be on a form approved by the Arizona Supreme Court and available at the clerk of the court, board, or administrative agency where such cause is pending.
- (B) File with the State Bar of Arizona a certificate from each state bar or from the clerk of the highest admitting court of each state, territory or insular possession of the United States, or foreign jurisdiction, in which the non-member attorney has been admitted to practice law certifying the non-member attorney's date of admission to such jurisdiction and the current status of the non-member attorney's membership or eligibility to practice therein.
- (C) Pay to the State Bar of Arizona a non-refundable application fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such application is filed plus an additional assessment set by the Arizona Supreme Court for the Client Protection Fund, with the following exceptions:
  - (i) Not more than one application fee may be required per non-member attorney for consolidated or related matters regardless

of how many applications are made in the consolidated or related proceedings by the non-member attorney.

- (ii) The application fee shall be waived (1) for Judge Advocate General's Corps' military attorneys practicing before the Military Trial Court of the State of Arizona or the Arizona Court of Military Appeals and (2) to permit pro bono representation of an indigent client or clients. An attorney seeking a fee waiver to provide pro bono representation of an indigent client or clients shall include in the application a verification that all clients represented in the action are indigent and that no attorney fee shall be paid by the client. "Indigent" is defined as those individuals whose gross income is at or below 125% of the federal poverty guidelines, as calculated in conformity with the eligibility requirements for Legal Services Corporation grantees, currently codified at 45 C.F.R. Section 1611.
  
- (D) Upon receipt of the verified application and fee from the non-member attorney as described above, the State Bar of Arizona shall issue to local counsel a Notice of Receipt of Complete Application that states: (1) whether the non-member 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. The State Bar shall retain copies of verified applications, certificates of good standing and orders granting, denying or revoking applications to appear pro hac vice for three (3) years.
  
- (E) 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:
  - (i) the original verified application as an exhibit;
  - (ii) the original certificates of good standing as an exhibit;
  - (iii) the State Bar of Arizona Notice as an exhibit; and
  - (iv) a proposed order granting or denying the motion.

- (F) Local counsel shall mail a copy of each order granting or denying the motion as entered by the court, board, or administrative agency to the State Bar of Arizona.

(3) *Scope of Authority.* A non-member attorney may not appear pro hac vice before any court, board or administrative agency of this state unless the non-member 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 non-member attorney in a particular cause shall accept joint responsibility with the non-member attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

(4) *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 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 non-member 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.

(5) *Disciplinary Jurisdiction of the State Bar of Arizona.* As provided in Rule 46(b), Rules of the Supreme Court, a non-member 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.

(6) *Termination of Authorization.* The court, board, or administrative agency may revoke the authority of a non-member 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: (1) a showing that the cause involves a complex area of law in

which the nonmember attorney possesses a special expertise, or (2) a lack of local counsel with expertise in the area of law involved in the cause.

(7) *Transfer.* The non-member 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 non-member attorney to appear pro hac vice.

(8) *Continuing Duties to Advise of Changes in Status.* A non-member attorney admitted pro hac vice shall have the continuing obligation during the period of such admission to promptly advise the State Bar of Arizona of a disposition made of pending charges or the institution of any new disciplinary proceedings or investigations. The State Bar of Arizona shall then advise any court, board, or administrative agency where the non-member attorney has been admitted pro hac vice of any such information. A non-member 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.

(9) *Renewal of Application and Fees.* 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 non-member 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 non-member attorney who continues to act as counsel in the cause shall remit to the State Bar of Arizona on or before each anniversary date an assessment set by the Arizona Supreme Court for the Client Protection Fund and a fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such renewal is sought, unless the non-member attorney is waived under paragraph (c)(1)(B)(ii) of this rule as a Judge Advocate General's Corps' military attorney or as an attorney providing pro bono representation of an indigent client.

(10) *Failure to Renew.* Any non-member attorney who continues to appear pro hac vice in a cause and fails to pay the renewal fees set forth in paragraph (h) 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 non-member 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 non-member attorney may be reinstated upon the payment of fees set forth in paragraph (h) of this rule and a \$50 late penalty. Upon payment of all accrued fees and late penalty, the executive director shall reinstate the non-member attorney and shall certify such reinstatement to the court, board, or administrative agency where the cause is filed.



(11) *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.

(12) *Disposition of Fees*. Fifteen percent of the application fees paid pursuant to this rule shall be deposited into a civil legal services fund to be distributed by the Arizona Foundation for Legal Services and Education entirely to approved legal services organizations, as that term is defined in Rule 38(d).

**(b) Practice Pending Admission**

(1) *General Statement and Eligibility*. An applicant who currently holds an active license to practice law in another jurisdiction in the United States, and who has been engaged in the active practice of law for three of the last five years, may provide legal services in Arizona through an office or other place for the regular practice of law in Arizona for no more than 365 days, provided that the applicant:

- (A) is a licensed attorney in good standing in all courts and jurisdictions in which he or she is admitted to practice;
- (B) is not currently subject to an order of attorney discipline or the subject of a pending disciplinary or disability investigation in any jurisdiction;
- (C) has not previously been denied admission to practice law in Arizona, has not failed the Arizona bar examination within the last three years, and has never been denied admission on character and fitness grounds in any jurisdiction;
- (D) has first submitted an application deemed complete by the Committee on Character and Fitness for admission on motion (Rule 34(f)), admission by transfer of uniform bar examination score (Rule 34(h)), or admission by Arizona bar examination (Rule 34), and has complied with the requirements of Rule 34 (f)(1)(B),(D) and (H);
- (E) reasonably expects to fulfill all of Arizona's requirements for that form of admission;
- (F) associates with and is supervised by an attorney licensed to practice in Arizona, and discloses the name, address, and membership status of that attorney;

- (G) provides a signed verification form from the Arizona attorney certifying the applicant's association with and supervision by that attorney;
- (H) affirmatively states in all written communications with the public and clients the following language: "Practice temporarily authorized pending admission under Rule 39(b). Supervision by [name of attorney], a member of the State Bar of Arizona";
- (I) pays the annual assessment to the Client Protection Fund; and
- (J) pays the required admission fee.

(2) *Appearances.* Until the applicant's admission is granted, the applicant may not appear before a court of record or tribunal in Arizona that requires pro hac vice admission unless the applicant is granted such admission pursuant to Rule 39(a).

(3) *Notice of Disciplinary Investigation.* The applicant must immediately notify the Committee on Character and Fitness in writing if the applicant becomes subject to a disciplinary or disability investigation, complaint, or sanctions in any other jurisdiction at any time during the 365 days of practice authorized by this rule. The Committee on Character and Fitness shall take into account such information in determining whether to grant the attorney's application for admission to practice law in Arizona.

(4) *Discipline and Disability Jurisdiction.* Any attorney practicing under this rule shall be subject to the Rules of Professional Conduct and the Rules of the Supreme Court regarding attorney discipline in the State of Arizona.

(5) *Termination of Authorization to Practice.* The authority given an applicant to practice law pending admission pursuant to this rule shall terminate immediately if:

- (A) the applicant withdraws the application for admission or the application is denied;
- (B) the applicant fails to remain in compliance with paragraph (1) of this rule;
- (C) the applicant is disbarred, suspended, or placed on disability inactive status in any other jurisdiction in which the applicant is licensed to practice law; or

- (D) the applicant fails to comply with the notification requirements of paragraph (3) of this rule.

(6) *Action Required after Termination of Authorization to Practice.* Upon the termination of authority to practice law pursuant to this rule, the applicant shall:

- (A) immediately cease practicing law in Arizona;
- (B) notify in writing all clients in pending matters, and opposing counsel and co-counsel in pending litigation, of the termination of the applicant's authority to practice law in Arizona; and
- (C) take all other necessary steps to protect the interests of the applicant's clients.

(7) *Registration, Fees & CLE.* An attorney practicing under this rule shall not be subject to annual registration fees as required under Rule 32 or the mandatory legal education requirements under Rule 45.

(8) *Subsequent Attorney Admission.* When an attorney authorized under this rule is subsequently admitted to the practice of law in Arizona, the authorization will be superseded by the Arizona license to practice law.

**(c) Law Student Practice**

*(1) Definitions:*

“Certified limited practice student” is a law student or a graduate of a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association who holds a current Arizona Supreme Court certification as a limited practice student.

“Supervising attorney” is an attorney authorized to practice law in Arizona who agrees in writing to supervise the certified limited practice student under these rules and whose name appears on the application for certification or recertification.

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

*(2) General Statement and Eligibility.* A student enrolled in an approved law school, or a recent graduate of such a school who has applied to take the bar examination, may apply to be certified as a limited practice student under this

rule. To be eligible to become a certified limited practice student, the student must:

- (A) have successfully completed a minimum of two semesters of legal studies, or the equivalent academic hour credits;
- (B) neither ask for nor receive any compensation or remuneration of any kind for services rendered by the student from the person on whose behalf the services are rendered; however, this does not prevent a supervising lawyer, legal services organization, public defender agency, or the state from paying compensation to the student, nor shall it prevent the lawyer or agency from making such charges for its services as it may properly require;
- (C) certify in writing that the student has read, is familiar with, and will be governed by the Arizona Rules of Professional Conduct and Arizona statutes relating to the conduct of attorneys; and
- (D) be certified by the dean of the accredited law school where the student is enrolled, or was enrolled upon graduation, as being in good academic standing, or good character, and as having either successfully completed or being currently enrolled in and attending academic courses in civil procedure, criminal law, evidence, and professional responsibility;

(3) *Filing Requirements.*

- (A) All applications for certification as a limited practice student must be submitted to the clerk of the Court on a form provided by the clerk. All information requested on the form must be provided.
- (B) The application must include the signature of the student, the dean or the dean's designee of the law school in which the student is enrolled or was a recent graduate, and the supervising attorney.
- (C) The student must attest that he or she meets all the requirements of the rules; agrees to and shall immediately notify the clerk of the Court in the event he or she no longer meets the requirements of the rule; and that he or she has read, is familiar with, and will be governed by the Arizona Rules of Professional Conduct and these rules.
- (D) The dean or dean's designee of the accredited school in which the applicant is enrolled or was a recent graduate must attest that the applicant meets the requirements of these rules; that he or she will

immediately notify the clerk of the Court if the student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not qualified by ability, training, or character to participate in the activities permitted by these rules.

- (E) The supervising attorney must specify the period of time during which he or she will supervise the student and attest that he or she has read and will abide by these rules and will assume responsibility under the requirements of these rules.
- (F) Requests to change or add a supervising attorney or to extend the period of certification must be submitted on a form provided by the clerk.
- (G) The clerk of the Court will issue the notice of certification and send a copy of the certification to the student, the law school, the supervising attorney, and the State Bar.

(4) *Scope of Authority.*

- (A) Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the student is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the certified limited practice student shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. Notwithstanding anything set forth below, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct. A certified limited practice student may appear in the following matters:
  - (i) Civil Matters. In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

- (ii) Criminal Matters on Behalf of the State. In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be personally present except when such appearance is in justice, municipal, or magistrate courts.
  - (iii) Felony Criminal Defense Matters. In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally present throughout the proceedings.
  - (iv) Misdemeanor Criminal Defense Matters. In any misdemeanor criminal defense matter in justice, municipal, and magistrate courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney must be physically present during trial.
  - (v) Appellate Oral Argument. A certified limited practice student may participate in oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only in the physical presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.
- (B) Other Client Representation Activities. Under the general supervision of the supervising attorney (or designated attorney), a certified limited practice student may:
- (i) prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney (or designated attorney);
  - (ii) prepare briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);
  - (iii) provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-

conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);

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

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

- (i) the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;
- (ii) the student's supervising attorney is associated with the particular volunteer legal services program;
- (iii) the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

(5) *Requirements and Duties of Supervising Attorney.*

The supervising attorney must:

- (A) be an attorney authorized to practice law in Arizona and have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;

- (B) supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed full-time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than, fifty (50) certified students;
- (C) assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;
- (D) assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper practical training of the certified limited practice student and the protection of the client;
- (E) read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified limited practice student prior to the filing thereof, and read and approve any documents which shall be prepared by the certified limited practice student for execution by any person (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the supervising attorney shall still provide general supervision);
- (F) provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide general supervision); and
- (G) in the case of a certified student who is participating in the clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.
- (H) promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease prior to the date indicated on the application form.



- (6) *Discipline Jurisdiction.* 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 limited practice student pursuant to this rule.
- (7) *Duration and Termination of Certification.* Certification of a certified limited practice student will commence on the date indicated on a notice of certification and remain in effect for the period specified on the notice of certification unless sooner terminated pursuant to the earliest of the following occurrences:
- (A) Termination by the Student. The certified limited practice student may request termination of the certification in writing or notify the clerk of the Court that he or she no longer meets the requirements of this rule, and in such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.
  - (B) Termination by the Supervising Attorney. The supervising attorney may notify the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease prior to the date specified in the notice of certification. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean and the State Bar, and the dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.
  - (C) Termination by the Dean. A certification of student limited practice may be terminated by the dean any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.
  - (D) Failure to Take or Pass the Bar Examination. A certification of student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible.

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

(8) *Subsequent Attorney Admission.* If a student certified under this rule is subsequently admitted to the practice of law in Arizona, that student's certification of student limited practice will be superseded by the Arizona license to practice law.

**(d) Military Spouse Certification.**

(1) *General Statement and Eligibility.* Due to the unique mobility requirements of military families who support the defense of our nation, the Court may certify an attorney who is a spouse of a member of the United States Uniformed Services ("service member") stationed within Arizona to practice law under the terms of this rule. An attorney ("applicant") who is not a member of the State Bar of Arizona who meets the requirements of (A) through (J) of this paragraph (d)(1) may, upon verified application, be admitted to the temporary practice of law in this jurisdiction. The applicant must:

- (A) establish that the applicant is currently an active member in good standing in at least one jurisdiction where admitted in the United States or territory and is a member in good standing in all jurisdictions where admitted;
- (B) hold a juris doctor degree from a law school provisionally or fully approved by the Council of the Section of Legal Education and Admissions of the American Bar Association at the time of graduation;
- (C) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

- (D) submit character investigation information, in a manner established by the Court, including all required supporting documents, and establish that the applicant possesses the character and fitness to practice law in this jurisdiction;
- (E) submit evidence that the applicant is a dependent spouse of a service member of the United States Uniformed Services; that the service member is on full-time, active duty pursuant to military orders in Arizona; and that the applicant is residing in Arizona due to the service member's full-time, active duty pursuant to military orders in this state;
- (F) submit evidence of achieving the passing score established in this jurisdiction for the Multistate Professional Responsibility Examination;
- (G) submit evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j);
- (H) not have failed the Arizona bar examination or failed to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction within five years of the date of filing an application under this rule;
- (I) not have been previously denied admission to the practice of law in Arizona; and
- (J) agree to advise all clients, prior to providing representation or services, that the attorney is temporarily admitted under the military spouse exception.

(2) *Filing Requirements and Certification.*

- (A) **Application.** An applicant must file a verified application for military spouse certification with the Committee on Character and Fitness on a form supplied by the Committee. The application must include the documentation necessary to establish the requirements of (A) through (J) of this rule. At the time of submitting the verified application, the applicant must pay an application fee as set by the Court.
- (B) **Certification by Court.** If the Committee determines that the applicant has met the requirements of this rule and possesses the character and fitness required of all applicants for admission, it shall recommend to

the Court the applicant's certification to practice law. The attorney may not act as counsel for a client until certified under this rule by order of the Court. A copy of the order certifying the attorney for temporary admission will be sent by the Clerk to the Chief Bar Counsel.

- (C) **Duration and Renewal.** A temporary admission will be valid for one year from the date of issuance, unless terminated earlier pursuant to paragraph (5). An attorney admitted under this rule may annually renew a temporary admission by filing a written request for renewal and paying a registration fee.
- (3) *Scope of Authority.* Except as provided in this rule, an attorney temporarily admitted under this rule shall be entitled to all rights and privileges and subject to all duties obligations and responsibilities otherwise applicable to active members of the State Bar for the period of authorized practice.
- (A) **Association of Local Counsel.** No attorney temporarily admitted under this rule may appear before any court, board, or administrative agency of this state unless the attorney has associated in that cause an attorney (local counsel) who is a member in good standing of the State Bar of Arizona. The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with an attorney temporarily admitted under this rule in a particular cause shall accept joint responsibility with that attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.
  - (B) **Supervision of local counsel.** If the attorney temporarily admitted under this rule has not engaged in the active practice of law for at least five years cumulatively, the attorney shall be supervised by local counsel as defined above, who will be responsible to the court, the bar, the Court, and the client for all services the temporarily admitted attorney provides pursuant to this rule.
- (4) *Discipline and Disability Jurisdiction.* An attorney temporarily admitted under this rule 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.

(5) *Termination of Certification.*

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

- (i) the service member's separation or retirement from the United States Uniformed Services;
- (ii) the service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the Department of Defense does not authorize dependents to accompany the service member, in which case the temporary attorney may continue to practice law in Arizona as provided in this rule;
- (iii) the attorney's permanent relocation outside the state of Arizona for reasons other than the service member's relocation;
- (iv) the attorney's ceasing to be a dependent as defined by the Department of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Department of Homeland Security;
- (v) the attorney's failure to meet the annual licensing requirements for an active member of the State Bar of Arizona;
- (vi) the attorney's request;
- (vii) the attorney's admission to practice law in Arizona under any other admissions rule;
- (viii) the attorney's failure to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction;
- (viii) the attorney's denial of admission to the practice of law in Arizona for violating ethical rules; or

- (x) notice by the Court at any time, provided that the Clerk of the Court shall mail a copy of the notice of termination to the attorney and associated local counsel.
  
- (B) Notice of termination to State Bar. An attorney whose temporary admission is terminated shall provide written notice to the State Bar of Arizona within thirty (30) days of the terminating event.
  
- (C) Notice to courts and clients. At least sixty (60) days before termination of the temporary admission, or as soon as possible under the circumstances, the attorney shall:
  - (i) file in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and
  - (ii) provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.
  
- (6) *Registration, Fees & CLE.* An attorney certified under this rule who seeks to renew the certification shall be required to pay a registration fee. No later than six months following the attorney's temporary admission, the attorney shall certify to the Court completion of at least fifteen hours of continuing legal education on Arizona practice, procedure, and ethics. The attorney shall also comply with Rule 45 and ,on or before September 15 of each year, certify completion of at least fifteen (15) hours of such continuing legal education during each year for which a temporary admission is renewed.
  
- (7) *Registration number.* An attorney certified under this rule shall be assigned a registration number, which shall be used to identify the attorney's registration status in Arizona as required by applicable rules of procedure.
  
- (8) *Subsequent Attorney Admission.* If an attorney certified under this rule is subsequently admitted to the practice of law in Arizona, that attorney's military spouse certification will be superseded by the Arizona license to practice law.