



WEST VIRGINIA JUDICIARY

Rules for Admission to the Practice of Law

Search *Search*



Rules for Admission to the Practice of Law

Table of Contents

TABLE OF CONTENTS

- Rule 1.0.** [Board of Law Examiners](#)
- Rule 2.0.** [General requirements for admission](#)
- Rule 3.0.** [Admission by examination](#)
 - Rule 3.1.** [Applicant for admission by examination](#)
 - Rule 3.2.** [West Virginia Bar Examination](#)
 - Rule 3.3.** [Bar examination procedures](#)
 - Rule 3.4.** [Review; reexamination](#)
 - Rule 3.5.** [Admission by transferred UBE score](#)
- Rule 4.0.** [Admission without examination](#)
 - Rule 4.1.** [Application](#)
 - Rule 4.2.** [Requirement of good moral character](#)
 - Rule 4.3.** [Criminal, disciplinary and civil proceedings](#)
 - Rule 4.4.** [Multistate Professional Responsibility Examination](#)
 - Rule 4.5.** [Notice of adverse determination](#)
 - Rule 4.6.** [Resident professors of law](#)
 - Rule 4.7.** [Military Spouse Temporary Admissions](#)
- Rule 5.0.** [Requirement of good moral character of applicant](#)
 - Rule 5.1.** [District Character Committees](#)
 - Rule 5.2.** [Procedure of demonstration of good moral character](#)
 - Rule 5.3.** Procedure upon adverse character determination **[Abrogated]**



Rule 5.4. Review by District Character Committee **[Abrogated]**

Rule 6.0. [Administrative hearing procedure](#)

Rule 7.0. [Admission procedure](#)

Rule 7.1. [Conditional Admission](#)

Rule 8.0. [Admission pro hac vice](#)

Rule 9.0. [Limited permission of attorneys of other states](#)

Rule 10.0. [Rule relative to legal assistance by law students to persons unable to pay for legal services](#)

Rule 10.1. [Requirements and limitations](#)

Rule 10.2. [Certification](#)

Rule 10.3. [Other activities](#)

Rule 10.4. [Supervision](#)

Rule 10.5. [Miscellaneous](#)

Rule 1.0. Board of Law Examiners.

(a) Membership. — The Board of Law Examiners shall consist of seven (7) members of the West Virginia State Bar who shall each be residents of the State of West Virginia or be employed full time within the State of West Virginia, and shall be appointed by the Supreme Court of Appeals of West Virginia. The term of all members shall be seven years, except that the original appointments to the new seven-member Board shall be for terms of one, two, three, four, five, six and seven years, respectively. Term of office shall begin on the first day of January of the appropriate year and end on the thirty-first day of December of the appropriate year. Any vacancy on the Board shall be filled by the Supreme Court of Appeals by appointment for the unexpired term. All members of the Board shall be eligible for reimbursement for travel and other expenses incidental to the performance of their duties. Members of the Board who are not judicial officers shall be considered temporary employees of the Supreme Court of Appeals only for the limited purpose of payment and shall receive W-2 compensation. The limited nature of the classification shall not subject the non-judicial members to any of the rules or requirements set forth in the West Virginia Judicial Personnel System Manual or the Code of Judicial Conduct. Members shall not be conflicted off any case or controversy before any court in West Virginia by virtue of their affiliation with and service on the Board.

(b) Removal. — No member may be removed from office except for official misconduct, incompetence, neglect of duty or immorality, provided, that the expiration or revocation of the professional license, or change of residency or employment qualification of a member of the Board shall be cause for his or her removal.

(c) Geographic representation. In making appointments to the Board, the Supreme Court of Appeals shall, so far as may be possible and practicable, select the several members from different geographical sections of the State.



(d) Prohibited contacts. — Contact regarding bar examination results or admission concerns by telephone or otherwise with individual members of the Board of Law Examiners, with individual Justices of the Supreme Court of Appeals, or with graders of the West Virginia Bar Examination, by an applicant, or his or her representative, is prohibited.

(e) Civil immunity. — The Board of Law Examiners and its District Character Committees, their members and employees, shall be absolutely immune from civil suit in the same manner as members of the judiciary in this State for any conduct or communication in the course of their official duties. "Official duties" for the purpose of this Rule includes but is not limited to any conduct or communication dealing with the Bar examination, the character and fitness qualification review and investigation, and any other conduct involved in the licensing of persons seeking to be admitted to the practice of law in West Virginia.

(f) Qualified immunity. — Those persons, including any person, firm, or institution, providing records, statements of fact or fact and opinion, or other information regarding an applicant for admission to the practice of law to the Board of Law Examiners, the District Character Committee members, their employees or agents, shall be immune from civil suit for any conduct or communication sought or given in connection with the licensing of persons seeking to be admitted to the practice of law in West Virginia absent a clear and convincing showing that the information provided is defamatory and published by the informant with "actual malice". For purposes of this rule, "actual malice" means the informant provided the defamatory information with (a) knowledge by the informant that the defamatory information was false at the time of its publication or, with (b) willful and reckless disregard of truth by the informant at the time of its publication. For purposes of this rule, "defamatory" means that the statements or information tends to cast shame, contumely and disgrace upon the person referenced by the statement or information in question.

(g) Discoverability of investigative materials. — All information provided, documents filed, or testimony given with respect to any investigation or proceeding under these rules shall be privileged and nondiscoverable in any civil suit absent a court order finding that the movant seeking the discovery is (1) the person who is referenced by the alleged defamatory statement or information which is the subject of the discovery request (2) the information, document or testimony is sought to prove an action pursuant to Rule 1 (f) only and (3) the movant establishes a prima facie showing to the court of the elements necessary to sustain an action under Rule 1 (f) in regard to the document or information sought in the discovery request. Any materials released pursuant to such court order will remain privileged as to any other use.

[As amended by order entered June 14, 1995, effective September 1, 1995; by order entered November 26, 2002, effective November 26, 2002.]

Rule 2.0. General requirements for admission.

An applicant is eligible for admission to the practice of law in West Virginia upon establishing to the satisfaction of the Board of Law Examiners: (1) age of at least eighteen (18) years; (2) good moral character and fitness; (3) graduation from an approved college or university with an A.B., B.S., or higher degree, or its equivalent; (4) graduation from an approved law school with an L.L.B., J.D., or its equivalent under Rule 3.0(b); (5) passing score on the West Virginia General Bar Examination, the Uniform Bar Examination ("UBE"), or qualification under Rule 4.0, et seq.; and (6) passing score on the Multistate Professional Responsibility Examination ("MPRE") within twenty-five months of achieving a passing score on the West Virginia Bar Examination; within twenty-five months of

achieving a passing score on the UBE, or within twenty-five months of an application for admission on motion. Any conviction for false swearing, perjury or any felony, and the applicant's prior and subsequent conduct, shall be considered in the determination of good moral character and fitness.

[As amended by order entered July 25, 2001, effective immediately.]

Review of board decisions. — *The Supreme Court reviews de novo the adjudicatory record made before the board of law examiners with regard to questions of law, questions of application of the law to the facts, and questions of whether an applicant should or should not be admitted to the practice of law. [In re Dortch](#), 199 W.Va. 571, 486 S.E.2d 311 (1997)*

Rule 3.0. Admission by examination.

(a) Course of study. — Unless otherwise specified herein, any person who wishes to take the bar examination in the State of West Virginia shall satisfy the Board that he or she has completed a full course of study in a law school accredited by the American Bar Association, or its equivalent, and has been granted and holds a degree of L.L.B. or J.D., or their equivalents, and a degree of A.B. or B.S., or higher degree, from an accredited college or university, or its equivalent.

(b) Policy on equivalency. — The Board of Law Examiners will consider the following circumstances to be the equivalent of completion of a full course of study in a law school accredited by the American Bar Association, and an applicant meeting the standards set forth herein shall be presumed to be eligible to take the West Virginia Bar Examination; providing that all other requirements set forth in Rule 3.0, et seq., for admission to the bar examination are met; *Provided*, That graduates of correspondence law courses, including law schools providing more than 50% of classes as Internet-based classes, shall not be eligible to take the West Virginia Bar Examination.

- (1)** The applicant is a graduate of a non-ABA accredited law school who has successfully passed the bar examination of another state, the District of Columbia, or commonwealth or territory of the United States, and has been admitted to practice in such state, district, commonwealth, or territory, or
- (2)**
 - (A)** The applicant is a graduate of a non-ABA accredited law school, which school is of such stature that its graduates are eligible to take the bar examination of the state, District of Columbia, commonwealth or territory of the United States in which such law school is located, and
 - (B)** The applicant has completed three (3) years of law office study and work in this state as a legal assistant or paralegal, under the supervision of an attorney or attorneys admitted to practice in West Virginia, and
 - (C)** Two attorneys admitted to practice in West Virginia, at least one of whom shall have actively supervised the applicant for a period of not less than six months, certify to the Board that they believe that the applicant is knowledgeable in the law, competent to practice law, and of good moral character, or
- (3)**
 - (A)** The applicant is a graduate of a reputable law school which, although not accredited by the ABA, has been determined by the Board of Law Examiners to be substantially the equivalent of an ABA-accredited school.

(B)The Board shall consider applications for admission under paragraph 3 only at a regular meeting of the Board, with the Board's determination to become effective commencing with the next successive examination. All information required for such determination must be provided to the Board at least 60 days prior to its regular meeting. The Board reserves the right to require additional information from the applicant or the institution if it determines that it has insufficient information to make a determination of equivalency.

(C)Once a determination of substantial equivalency has been made by the Board, the graduates of such school shall be presumed eligible to take the West Virginia Bar Examination for such period as the Board may designate unless a situation arises requiring review at an earlier time. Said determination may be renewed by the Board. Upon expiration of said determination, the institution or the applicant shall have the burden of establishing that said institution continues to be substantially the equivalent of an ABA-accredited law school, or

(4) **(A)**The applicant is a graduate of a law school of a foreign country where the common law of England exists as the basis of its jurisprudence, and

(B)The educational requirements for admission to the bar in said country are substantially the same as those of this State, and that the applicant has satisfied those requirements, and

(C)The applicant has successfully completed study at an ABA- accredited law school, with a minimum of 30 credit hours of basic courses selected from the following areas of law: Professional Responsibility/Legal Ethics, Contracts, Property (Real and Personal), Uniform Commercial Code, Criminal Law, Evidence, Business Organizations/Corporations, Domestic Relations, Wills, Trusts and Estates, Constitutional Law, Civil Procedure, Criminal Procedure, Torts, Federal Taxation and Conflict of Laws, and which such study shall be completed within a period of 36 calendar months from the date of the inception of such study.

The burden of establishing eligibility to take the bar examination to the satisfaction of the Board of Law Examiners shall be on the applicant and upon the institution seeking admission to the bar examination for its graduates. The applicant or the institution shall furnish to the Board all information and documents necessary to enable the Board to make a determination as to whether or not the requirements of this policy have been met. Any costs incurred by the Board in the determination of equivalency under this Rule shall be assessed against the applicant.

The Board may require the applicant to appear before the Board at its next regular meeting if the Board determines that it has insufficient information upon which to make a decision. Decisions by the Board pursuant to this policy shall be subject to the administrative hearing procedure provided by Rule 6.0 of the Rules for Admission to the Practice of Law in West Virginia.

[As amended by order entered June 24, 1992, effective July 1, 1992; by order entered June 14, 1995, effective September 1, 1995; by order entered November 20, 2012, effective January 1, 2013.]



Rule 3.1. Applicant for admission by examination.

(a) Form of application. — The Board of Law Examiners shall prepare suitable application forms for admission by examination, and may require that the applications be accompanied by appropriate evidence that the applicant meets the requirements of Rules 2.0, 3.2(d), 3.2(e), and 5.0, et seq.

(b) Time of application. — All applicants shall have completed applications filed not later than November 1st preceding the February examination, and not later than April 1st preceding the July examination for which they wish to sit. Incomplete applications shall be promptly returned to the applicant. Incomplete applications must be completed and re-filed within the deadlines provided in this rule in order to avoid late filing fees. No application shall be accepted later than December 1st preceding the February examination or May 1st preceding the July examination. An applicant may withdraw his or her application, at any time, upon written request to the Board, but there shall be no refund of fees upon withdrawal. Failure to appear for an examination for which an applicant has registered to sit shall be deemed a withdrawal.

(c) Application fee. — A fee, as set forth in the fee schedule, shall accompany the filing of an application for admission by examination. A late filing fee, as set forth in the fee schedule, shall accompany all applications filed between November 1st and December 1st preceding the February examination or April 1st and May 1st preceding the July examination.

(d) Applicant number. — The Board shall assign to each applicant an applicant number, which shall be used to identify the applicant.

[As amended by order entered November 29, 1989, effective January 1, 1990; and by order entered June 24, 1992, effective July 1, 1992.]

Rule 3.2. West Virginia Bar Examination.

(a) West Virginia Bar Examination. — The West Virginia Bar Examination shall consist of a General Bar Examination and the MPRE. The purposes of the West Virginia Bar Examination are to test the applicant's ability to reason logically, to analyze accurately the problems presented, to demonstrate a thorough knowledge of the fundamental principles of law and their application, and ultimately to determine whether an applicant is sufficiently prepared to render legal advice and representation to the public within the bounds of the Rules of Professional Conduct.

(b) General Bar Examination. — The General Bar Examination will consist of three parts. Part A will consist of the Multistate Performance Test ("MPT") which will include two (2) performance test questions prepared by the National Conference of Bar Examiners and administered by the Board of Law Examiners. Part B will consist of the Multistate Essay Examination ("MEE") which will include six (6) essay questions prepared by the National Conference of Bar Examiners and administered by the Board of Law Examiners. Part C will consist of the Multistate Bar Examination ("MBE") which will include two hundred (200) multiple choice questions prepared by the National Conference of Bar Examiners and administered by the Board of Law Examiners.



(c) Passing the examination. — All answers to the MPT and the MEE will be graded and the scores combined. The total MPT/MEE raw score will be scaled to the MBE by the National Conference of Bar Examiners in accordance with Uniform Bar Examination policies. The MPT/MEE scaled score and the MBE scaled score will be combined to determine an applicant's final score on the examination. Applicants who earn a combined scaled score of 270 shall pass the examination. Applicants whose combined scaled scores are below 270 shall fail the examination. A passing score on the West Virginia Bar Examination shall remain eligible to be used for admission to practice law in West Virginia for no more than three years from the date of the examination.


(d) Multistate Professional Responsibility Examination. — Prior to admission on examination, an applicant, in addition to passing the General Bar Examination, must have successfully completed the MPRE prepared and administered by the National Conference of Bar Examiners. To successfully complete the MPRE, the applicant must have achieved a scaled score of at least 80 as determined by the National Conference of Bar Examiners within twenty-five (25) months of successful completion of the General Bar Examination. Arrangements to take such examination, including the payment of any fees therefor, shall be made directly with the National Conference of Bar Examiners.

(e) Transfer of MBE scores from other jurisdictions. — In lieu of taking the MBE portion of the first West Virginia Bar Examination taken by the applicant, the Board may, if requested by the applicant, accept any MBE score achieved in another jurisdiction in a prior examination conducted within thirteen months of the current examination, provided the applicant successfully completed the entire bar examination in the other jurisdiction. If the applicant fails the West Virginia Bar Examination, the MBE may not be used in any succeeding West Virginia Bar Examination. All applicants shall notify the Board of their intention to use the MBE achieved in a prior examination at the time their application is filed. Provided, that an applicant who does not sit for the MPT, MEE, and MBE in the same administration of the West Virginia Bar Examination will not earn a UBE score pursuant to subsection (f) below.

(f) The Uniform Bar Examination. — Beginning with the July 2017 administration of the West Virginia Bar Examination, applicants who complete the MPT, MEE, and MBE portions of the West Virginia Bar Examination in the same examination administration and in compliance with the standards and requirements followed by UBE jurisdictions, as coordinated by NCBE, may earn a UBE score that is transferable to other UBE jurisdictions.

[As amended by order entered November 29, 1989, effective January 1, 1990; by order entered June 26, 1990, effective August 1, 1990; by order entered July 24, 1990, effective August 1, 1990; by order entered May 16, 1991, effective May 16, 1991; by order entered June 24, 1992, effective July 1, 1992; by order entered December 9, 1992, effective January 1, 1994; by order entered March 24, 1993, effective July 1, 1993; by order entered April 7, 1993, effective July 1, 1993; and by order entered December 11, 1996, effective January 1, 1998; by order entered November 20, 2012, effective January 1, 2013.]

Rule 3.3. Bar examination procedures.

(a) Time and conduct of examination. — The Board of Law Examiners shall conduct two examinations annually at such times as the Board, in its discretion, may determine. The examinations shall be conducted under the supervision of the Board. Applicants shall wear appropriate attire to the examination. The Board may exclude from an examination any 

applicant who does not wear appropriate attire or otherwise engages in disruptive conduct.

(b) Typing of answers. — The Board of Law Examiners shall have discretion to permit applicants to use laptop computers, in conjunction with secure software approved by the Board and paid for by the applicant, to complete the MPT and MEE sections of the bar examination. The Board may direct the manner in which applicants register their laptop computers for this purpose; the dates by which that registration must be completed; and the procedures for submission of MPT and MEE answers after completion of the examination. The Board may direct an applicant to handwrite any portion of the examination at any time if the applicant's behavior is disruptive to other examinees or if technical difficulties, security concerns, or other problems arise. Where a reasonable suspicion arises that an applicant has cheated, attempted to cheat, or aided or assisted another applicant in cheating, the Board may take all necessary steps, up to and including asserting control over an applicant's personal laptop computer, to investigate the applicant's conduct and ensure the security of examination materials.

(c) Early admission to bar examination. — If an applicant has qualified for a degree in law that would qualify him to take the examination, but the awarding of the degree by the law school is delayed until after the examination, the Board may permit such applicant to take the examination.

(d) Examinations for persons in military service. — Upon a showing of scheduled active duty overseas in the military service at the time of the July examination, the Board may, in its discretion, permit an applicant to take the bar examination during such applicant's last semester of law school.

(e) Examination of applicants with a disability. — All reasonable steps shall be taken by the Board to facilitate the examination of applicants with a disability or disabilities as defined by the Americans with Disabilities Act. For the purpose of this rule, "disability or disabilities" means physical or mental impairment that substantially limits one or more of the major life activities of such individual. Applicants with a disability or disabilities must notify the Board of any reasonable accommodation(s) needed at the time of the filing of the application on forms provided by the Board. The Board will consider accommodations requests submitted after December 1st preceding the February examination or May 1st preceding the July examination only where the applicant demonstrates that the disability in question arose after submission of the application.

(f) Appeal of accommodations decision. — The Board will notify an applicant promptly in writing of its decision regarding the applicant's accommodations request. If the request is denied in whole or in part, the applicant may submit further documentation in support of the request only if the application deadline has not yet passed or if further documentation is specifically requested by the Board in the notice of decision. An applicant may appeal the Board's denial of accommodations by submitting a written request for a hearing under Rule 6.0 within ten (10) calendar days of receipt of the Board's decision; however, the evidence introduced at such a hearing shall be limited to evidence the applicant submitted in support of the accommodations request or evidence that is necessary to clarify existing documentation. The Board shall make every reasonable effort to complete the Rule 6.0 hearing process prior to the examination for which the applicant has applied.

(g) Anonymity of applicants. — The identity of the writer of the MPT and the MEE shall not be known until the grades of all applicants have been finally determined. The Board shall

have discretion to release unofficial bar passage information by anonymous applicant number on the Board's website.

[As amended by order entered November 29, 1989, effective January 1, 1990; by order entered June 26, 1990, effective August 1, 1990; by order entered June 24, 1992, effective July 1, 1992; and by order entered March 24, 1993, effective July 1, 1993; by order entered November 26, 2002, effective November 26, 2002; by order entered November 20, 2012, effective January 1, 2013.]

Rule 3.4. Review; reexamination.

(a) Review of failed examination by applicant. — If an applicant fails to pass an examination conducted by the Board, the applicant may, within twenty (20) days after the results of the examination are mailed to the applicant by the Board, review at the Board's offices the applicant's examination papers, which shall include questions posed by the Board, the applicant's answers to the questions and the grades given to the applicant by the Board as regards the MPT and the MEE. The MBE questions and answers may not be reviewed, nor may an applicant review his or her original MBE answer sheet. The applicant may request to have the MBE graded by hand upon payment of a fee established by the National Conference of Bar Examiners.

(b) Appeal by failing applicants. — The grades assigned to the West Virginia Bar Examination shall be final and no appeal shall be considered.

(c) Reexamination. — If an applicant fails to pass his or her first examination he or she will be permitted to take subsequent examinations. An applicant who has failed to earn the minimum score required to pass in this State after a fourth examination taken in this or any other jurisdiction shall not again be admitted to an examination or be admitted by transferred UBE score except upon permission of the Board of Law Examiners for good cause shown. The Board so granting the permission may, as a condition to the granting of another examination, prescribe a further course of study.

[As amended by order entered June 26, 1990, effective August 1, 1990; by order entered June 24, 1992, effective July 1, 1992; and by order entered March 24, 1993, effective July 1, 1993; by order entered November 20, 2012, effective January 1, 2013]

Rule 3.5. Admission by Transferred UBE Score.

(a) Requirements for transferring of UBE score. — An applicant who has taken the UBE in a jurisdiction other than West Virginia and who otherwise meets the requirements of Rules 2.0, 3.0, 3.4(c), and 5.0, may be admitted to the practice of law in West Virginia based upon a UBE score transfer at any time on or after July 1, 2017. The applicant under this rule shall have earned a combined, scaled UBE score of no less than 270 in an administration of the UBE taken within three years immediately preceding the date upon which application is made and a scaled MPRE score of no less than 80 achieved within twenty-five months of the applicant's successful UBE administration.

(b) Only certified UBE scores will be accepted. — The Board will not accept transferred scores unless they are certified as UBE scores by the NCBE and will not address petitions to treat a noncertified score as a UBE score.



(c) Form of application. — The Board of Law Examiners shall prepare suitable application forms for admission by transferred UBE score, and may require that the applications be accompanied by appropriate evidence that the applicant meets the requirements of Rules 2.0, 3.0, 3.4(c), and 5.0, et seq.

(d) Application fee. — A fee, as set forth in the fee schedule, shall accompany the filing of an application for admission by transferred UBE score.

Rule 4.0. Admission without examination.

(a) Intention to practice in West Virginia. — In order to be eligible for admission to practice in the State of West Virginia, without examination, upon the basis of admission in any other state, an applicant must demonstrate to the satisfaction of the Board that he or she intends to practice law in the State of West Virginia on at least a minimal basis.

(b) Reciprocity requirements. — To be eligible for admission to practice in the State of West Virginia upon the basis of admission in any other state, an applicant must have been lawfully engaged in the active practice of law for five (5) of the seven (7) years next preceding his or her application and must have held a valid license to practice law from some state throughout such five year period; and, must demonstrate to the Board that the standards of admission in at least one of the states where he or she was previously admitted were, at the time of the applicant's admission in that state, and are now, substantially equivalent to the standards for admission in West Virginia.

(c) Definition of active practice of law. — Engagement in the active practice of law for the purpose of these rules shall mean practice on a substantial basis motivated by a desire to earn a livelihood from that practice. Practice for the required period must have been active and continuous. A lawyer in military or government service shall be considered to have been engaged in the active practice of law only for the period of time when he or she was engaged primarily in the performance of legal services or duties. A lawyer employed as a judge, magistrate, hearing examiner, administrative law judge, or similar official of the United States, including independent agencies thereof, or of any state, territory or municipality of the United States with duties of hearing and deciding cases and controversies in judicial or administrative proceedings, shall be considered to have been engaged in the active practice of law, provided such employment is available only to a lawyer. A lawyer employed as a full-time teacher in any approved law school shall be considered to have been engaged in the active practice of law.

[As amended by order entered June 24, 1992, effective July 1, 1992; and by order entered June 14, 1995, effective September 1, 1995 by order entered November 26, 2002, effective November 26, 2002.]

Rule 4.1. Application.

(a) Form of application. — The Board of Law Examiners shall prepare suitable forms for application for admission, without examination, of attorneys from other states, and may require that the applications be accompanied by appropriate evidence that the applicant meets the requirements of Rules 2.0, 4.0, et seq., and 5.0, et seq.

(b) Application fee. — A fee, as set forth in the fee schedule, shall accompany the filing of an



application for admission, without examination, of attorneys from other states.

(c) Burden of proof. — The burden of showing eligibility for admission shall rest totally on the applicant and there shall be no presumption that the applicant is eligible.

[As amended by order entered June 24, 1992, effective July 1, 1992.]

Rule 4.2. Requirement of good moral character.

(a) Certificate of good standing. — In order to be admitted to practice law in West Virginia, the applicant must be in good standing in every state in which he or she has been admitted to practice and maintains an active status and must submit evidence of that standing.

(b) Proof of good moral character. — In order to be eligible for admission, the applicant must show that he or she is possessed of good moral character and is mentally and emotionally stable.

(c) Affidavits of good character. — Each applicant shall present the affidavit of at least two attorneys at law practicing in the courts in which the applicant last engaged in practice and the authenticated certificate of a judge of a court of record where the applicant is admitted to practice, evidencing the applicant's good character and compliance with the Code of Professional Responsibility.

[As amended by order entered June 14, 1995, effective September 1, 1995.]

Rule 4.3. Criminal, disciplinary and civil proceedings.

(a) Criminal record. — An applicant shall be required to state in the application whether or not he or she has been convicted of any criminal offense or has been arrested on any criminal charge. In the case of an arrest, the applicant shall be required to state the time, place and disposition of the charge. In case of conviction, the applicant shall state the charge of which he or she was convicted and the time and place of conviction and the sentence imposed.

(b) Disciplinary proceedings. — An applicant shall state in the application whether any formal disciplinary proceedings have ever been instituted against him or her and, if so, the time, place, nature and disposition of the charges made.

(c) Civil proceedings. — An applicant shall list on his or her application all litigation to which he or she has been a party litigant and state the disposition thereof.

Rule 4.4. Multistate Professional Responsibility Examination.

Prior to admission on motion, an applicant must have successfully passed the MPRE prepared and administered by the NCBE. To successfully complete the MPRE, the applicant must have achieved a scaled score of at least 80 as determined by the NCBE. Arrangements to take such examination, including the payment of any fees therefore, shall be made directly with the NCBE. The Board may, if requested by the applicant, accept any MPRE score achieved in another jurisdiction in a prior examination conducted within twenty-five months of application for admission. All applicants for

admission on motion shall notify the Board of their intention to use the MPRE score achieved in another jurisdiction at the time their application is filed.

[As amended by order entered June 14, 1995, effective September 1, 1995; by order entered November 20, 2012, effective January 1, 2013.]

Rule 4.5. Notice of adverse determination.

In the event that the Board determines that an applicant does not meet the requirements for reciprocity, it shall advise the applicant in writing of the reasons why the applicant is disqualified, and the applicant may request a formal hearing under Rule 6.0.


Rule 4.6. Resident professors of law.

A bona fide resident of this State who currently holds a position as a full-time member of the faculty of law at the College of Law at West Virginia University, may be admitted to practice without examination provided the applicant has been admitted to practice before the court of last resort of another state, except that if such applicant has not, within twenty-five months next preceding his or her application, previously passed the Multistate Professional Responsibility Examination with a score satisfactory to the Board of Law Examiners, the applicant shall be required to pass such examination. Such admission shall be on a temporary basis for a period of five years. Such faculty member shall file for admission on a form prescribed by the Board of Law Examiners who shall also approve his or her character in accordance with Rule 5.2. The faculty member shall pay an application fee as set forth in the fee schedule and shall pay such fees as are required by the National Conference of Bar Examiners. The dean of the College of Law at West Virginia University shall file an annual report of all full-time members of the faculty of law who are currently admitted to practice under this rule with the Clerk of the Supreme Court of Appeals between the first and fifteenth day of July of each year. After satisfactory completion of the five-year period, such faculty member may be granted admission without limitation of time.

[As amended by order entered June 24, 1992, effective July 1, 1992.]

Rule 4.7. Military Spouse Temporary Admission.

(a) Requirements. An applicant who meets the requirements of this Rule may, upon motion, be admitted to the temporary practice of law in this jurisdiction. The Applicant shall:

- (1)** Have been admitted to practice law in another jurisdiction in the United States or territory;
- (2)** Establish that the applicant satisfies the requirements of Rule 2.0, Rule 4.2, Rule 4.3, and Rule 4.4;
- (3)** Establish that the Applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- (4)** Submit evidence that the Applicant is a dependent spouse of a service member of the United States Uniformed Services as defined by the Department of Defense 

- (5) Submit evidence that the service member is on full time, active duty pursuant to military orders in the State of West Virginia, which shall not include duty as a member of the Active Guard and Reserve;
- (6) Submit evidence that the Applicant is residing in West Virginia due to the service member's full time, active duty pursuant to military orders in this state;
- (7) Not have failed the West Virginia bar examination within five years of the date of filing an application under this rule;
- (8) Not have been previously denied admission to the practice of law in West Virginia; and
- (9) Agree to advise all clients, prior to providing representation of services, that the attorney is temporarily admitted under the military spouse exception.

(b) Filing Requirements. An applicant under this rule shall file an application for military spouse certification in accordance with the provisions of Rule 4.1. An applicant under this rule shall:

- (1) Demonstrate presence in West Virginia as a spouse of a service member by filing a copy of the certification of legal relationship, such as a marriage or civil union license, and a copy of the service member's military orders reflecting a permanent change of station to a military installation in West Virginia;
- (2) Certify that the applicant has read and is familiar with the West Virginia Rules of Professional Conduct;
- (3) Provide the Board of Law Examiners with a certificate of good standing from all courts and jurisdictions in which the attorney is admitted to practice;
- (4) Pay a fee as set forth in the fee schedule; and
- (5) Provide such other information as may be required by the Board of Law Examiners to determine the applicant's eligibility for temporary admission under these Rules.

(c) Duration. A temporary admission shall terminate, and an attorney shall cease the practice of law in West Virginia pursuant to that admission, unless otherwise authorized by these rules, thirty (30) days after any of the following events:

- (1) The service member's separation or retirement from the United States Uniformed Services;
- (2) 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 West Virginia as provided in this rule;
- (3) The attorney's permanent relocation outside the state of West Virginia for reasons other than the service member's relocation;
- (4) 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 of the Navy, the Department of Homeland Security;



- (5) The attorney's failure to meet the annual licensing requirements for an active member of the State Bar of West Virginia, including any and all continuing legal education requirements;
- (6) The attorney's request;
- (7) The attorney's admission to practice law in West Virginia under any other admissions rule; or
- (8) Notice by the Supreme Court at any time.

(d) Notice of Termination. An attorney whose temporary admission is terminated shall provide written notice to the West Virginia Board of Law Examiners within thirty (30) days of the terminating event. At least sixty (60) days before termination of the temporary admission, under this rule or as soon as possible under the circumstances, the attorney shall:

- (1) File in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and
- (2) Provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.

(e) Benefits and Responsibilities of Temporary Admission. An attorney temporarily admitted under this rule shall be entitled to the benefits and responsibilities of active members of the West Virginia State Bar, and shall be subject to the jurisdiction of the courts and agencies of the State of West Virginia and to the West Virginia State Bar 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.

Rule 5.0. Requirement of good moral character of applicant.

No person shall be admitted to the practice of law in the State of West Virginia, either by examination or on motion without examination, unless such person demonstrates to the Board, either directly or through the applicable District Character Committee, that he or she is possessed of good moral character, is mentally and emotionally stable, and is in good standing in every state in which he or she has been admitted to practice and maintains an active status: Provided, that this rule shall not apply to an attorney admitted under Rule 8.0.

[As amended by order entered November 29, 1989, effective January 1, 1990; and by order entered June 14, 1995, effective September 1, 1995.]

Rule 5.1. District Character Committees.

Appointment and term. There shall be District Character Committees, consisting of three members in each bar district of the West Virginia State Bar. The members of these committees shall be appointed by the Supreme Court of Appeals of West Virginia from lists of nomination submitted to the Court by all of the judges of courts of record within the particular bar district. The terms of the members of the District Character Committees shall be for five years and committee members shall be eligible for reappointment. The District Character Committees shall elect a Chairman and a Secretary from within their number. The members of the District Character Committees shall serve without compensation. Any vacancy on the District Character Committees shall be filled in the same manner



as the initial appointment of members of the Committees.

Rule 5.2. Procedure of demonstration of good moral character.

(a) Form of application. — The applicant for admission to the bar shall file with the Board an application, in such form as may be prescribed by the Board from time to time, designed to obtain from the applicant such information concerning the applicant's personal history and previous conduct as may be necessary to determine his or her moral character and qualification for membership in the bar. A copy of the application shall be forwarded to the National Conference of Bar Examiners for investigation and preparation of a character report. Upon receipt of the report, the Board shall forward the report and a copy of the application to the District Character Committee in the district closest to the applicant's permanent residence or the district where the applicant proposes to practice law.

(b) Burden of proof. — The applicant shall at all times have the burden of proving his or her good moral character before the District Character Committee, the Board, and the Court. If an applicant fails to answer any question on the application or propounded by any member of the District Character Committee, or to supply any documentary material requested by them, the Board or the Court may find that the applicant has not met the burden of proving his or her good moral character.

(c) Documentary material. — The applicant agrees that any and all documentary materials filed by the applicant in connection with his or her application may be offered into evidence, without objection, by the District Character Committee or by the Board of Law Examiners in any proceeding in regard to the applicant's admission to the practice of law.

(d) Procedure. — After receiving the application from the Board and the character report from the National Conference of Bar Examiners, the District Character Committee shall promptly, through one or more of its members: (1) determine whether to interview the applicant; (2) verify the facts stated in the application and character report, determine whether to communicate with the references given therein, and make such further investigation as it may deem desirable or necessary; (3) consider the character and fitness of the applicant to be admitted to the bar; and (4) transmit to the Board of Law Examiners a report of its investigation and its recommendation in regard to the character and fitness of the applicant for admission to the bar. If the Board ultimately determines that an applicant should not be recommended for admission, it shall make written findings of fact and conclusions of law in support of such recommendation.

(e) Continuing nature of investigation. — The District Character Committee shall continue to have all applicants under observation and subject to further report to the date set by the Court for admission to the bar. Applicants shall be under the continuing obligation to notify the Board in writing of any change, and the nature of such change, relating to any information sought in the application.

[Amended by order entered June 26, 1990, effective August 1, 1990; and by order entered June 24, 1992, effective July 1, 1992; by order entered November 26, 2002, effective November 26, 2002.]

Notes: For eleven factors which should be considered by courts in assessing the moral character of bar applicants whose backgrounds include criminal convictions, see *In re Dortch*, 199 W.Va. 571, 486 S.E.2d 311 (1997). An applicant who has previously been convicted of a felony or other serious crime carries a heavy burden of persuading the court that he or she presently possesses good moral character sufficient to be invited

into the legal community. *In re Dortch*, 199 W.Va. 571, 486 S.E.2d 311 (1997). While applicant, who was convicted of bank robbery and felony murder over twenty years prior, may have demonstrated that he had been rehabilitated, the Supreme Court held that his horrendous crime outweighed his present good deeds and that it would be detrimental to the public interest and the public confidence in the legal profession to admit the applicant. *In re Dortch*, 199 W.Va. 571, 486 S.E.2d 311 (1997). See also *Frasher v. West Virginia Bd. of Exmrs.*, 185 W.Va. 725, 408 S.E.2d 675 (1991).

Rule 5.3. Procedure upon adverse character determination.

[ABROGATED]

Rule 5.4. Review by District Character Committee.

[ABROGATED]

Rule 6.0. Administrative hearing procedure.

(a) Request for hearing. — A formal hearing is authorized under this Rule under the following circumstances if requested in writing by the applicant or scheduled by the Bar Admissions Administrator: where the Board determines that an applicant does not meet the requirements of the Rules for Admission to the Practice of Law for any reason, except the failure to pass the bar examination; where the Board denies in whole or in part an applicant's request under Rule 3.3 for special accommodations during the bar examination; or as authorized by Rule 8.0 with respect to an applicant admitted under a Conditional Admission Agreement. Unless otherwise specified herein, requests for a formal hearing must be received by the Board of Law Examiners within sixty days from the receipt of notice by the applicant of the Board's adverse decision. After a request for hearing has been made, an application may not be withdrawn, except upon written motion and for good cause shown and, further, upon payment of costs.

(b) Formal hearing. — The Board shall appoint a hearing officer, who shall be a disinterested, practicing attorney in the State of West Virginia, to conduct a formal hearing. The Board shall, by a written notice mailed to the applicant by certified mail at his or her address as stated in the application, specify the date, time and place of the hearing and the name of the hearing officer.

(c) Time for hearing. — Unless otherwise provided in these Rules, the time of the hearing shall not be less than twenty (20) days nor more than forty (40) days from the date of the receipt of the applicant's written request for a formal hearing. The Board or hearing officer may extend or shorten the time period for good cause shown. At the hearing before the hearing officer, the Board may designate a lawyer to represent it and to present evidence in support of the Board's decision. The applicant may be represented by counsel and shall have the right to present evidence in support of his or her qualifications, a request for special accommodations, or compliance with a Conditional Admission Agreement, and shall have the right to cross-examine witnesses, *Provided*, that evidence presented with regard to a request for special accommodations shall be limited as set forth in Rule 3.3. A record shall be made of the proceedings.



(d) Subpoena and contempt power. — The Board shall have power to issue subpoenas through the Clerk of the Supreme Court of Appeals. The Clerk shall prepare and have available for issuance at the request of any party, subpoenas returnable before the Board for attendance of witnesses or for the production of documentary evidence. Subpoenas, and other process of the Board, may be served in the same manner provided for service of subpoenas to the circuit courts of this State and may be served by mail or by any person designated by the Board or Clerk. The Board shall have jurisdiction co-extensive with the circuit courts of this State to compel the attendance of witnesses and the production of documents; and the failure of any person without adequate excuse to obey a subpoena or other process of the Board shall constitute contempt of the Board. All witnesses shall be entitled to such witness fees and expenses as in any civil proceeding in this State.

The Board or its appointed hearing officer may punish breaches of order and unprofessional conduct committed in its presence on the part of counsel, or any other person, by censure or exclusion from any hearing or may invoke the aid of any circuit court in keeping order. Such court, in case of the refusal of any person to maintain order before the Board or hearing officer, shall issue an order requiring such person to maintain order. Any failure to obey such order of the court may be punished by such court as contempt thereof. The Board or hearing officer may designate a person, or persons to act as bailiff or bailiffs to be in attendance at all its hearings.

(e) Review by Board and Court. — Upon completion of the hearing before the hearing officer, the hearing officer shall make a written recommendation based upon the requirements of these rules and upon the evidence submitted. Such written report, together with a copy of the transcript of the hearing, shall be forwarded as soon as practicable to the Board of Law Examiners. The Board, within forty-five (45) days from the receipt of said written report and the record, shall review the report and shall advise the applicant in writing as to whether he or she has been found eligible to take the bar examination or to be admitted, if examination is not required, or, in the case of a conditionally admitted applicant, whether the applicant has been found to have violated the Conditional Admission Agreement. In cases appealing the Board's denial of testing accommodations, the Board shall advise the applicant in writing within fifteen days from the receipt of the written report and the record whether the requested accommodations will be granted. In the event that the Board makes a finding adverse to the applicant, the applicant may file exceptions to the Board's recommendations. Exceptions shall be filed with the Clerk of the Supreme Court of Appeals within thirty (30) days from the date of the receipt of the Board's written recommendation. If the Court determines that the matter has merit, it shall docket the case for full argument.

[As amended by order entered November 29, 1989, effective January 1, 1990; by order entered March 24, 1993, effective July 1, 1993; and by order entered June 14, 1995, effective September 1, 1995; by order entered November 26, 2002, effective November 26, 2002; by order entered November 20, 2012, effective January 1, 2013.]

Rule 7.0. Admission procedure.

(a) Certificate of eligibility. — The Board shall issue a certificate of eligibility, which shall be filed, along with a character report, with the Clerk of the Supreme Court of Appeals, for every applicant who has complied with the requirements of the applicable rules and who has paid the statutory fee.



(b) General procedure. — An applicant who is eligible for admission may be admitted to the practice of law in the State of West Virginia by appearing before the Supreme Court of Appeals within twelve months of issuance of the certificate of eligibility, by taking the oath hereinafter set forth, and by signing the roll of attorneys maintained by the Clerk of the Supreme Court of Appeals. No applicant shall be admitted without taking the oath administered by the Clerk of the Supreme Court of Appeals and by signing the roll of attorneys in the office of the Clerk of the Supreme Court of Appeals. An affirmation may be given in lieu of an oath. The oath is administered and the roll is signed at a ceremony held in the courtroom of the Supreme Court of Appeals of West Virginia approximately one month after issuance of the certificate of eligibility. Failure to be sworn within twelve months of issuance of the certificate of eligibility causes the right to admission to lapse. The date of oath is the actual admission date of new attorneys.

(c) Oath of attorney. — Upon being admitted to the practice of law in the State of West Virginia, each applicant shall take and subscribe to the following oath or affirmation:


"I do solemnly swear or affirm that: I will support the Constitution of the United States and the Constitution of the State of West Virginia; that I will honestly demean myself in the practice of law; and, to the best of my ability, execute my office of attorney-at-law; so help me God."

(d) Certificate of admission. — Each applicant admitted may receive a certificate of admission suitable for framing. Such certificate shall be issued, upon payment of a fee as set forth in the fee schedule, in the name of the Supreme Court of Appeals of West Virginia and shall be signed by the Clerk of the Supreme Court of Appeals.

[As amended by order entered July 25, 2001, effective immediately; by order entered November 20, 2012, effective January 1, 2013.]

Notes: Standard of review; Ultimate discretion to admit lies with the Court. The Supreme Court reviews de novo the adjudicatory record made before the board of law examiners with regard to questions of law, questions of application of the law to the facts, and questions of whether an applicant should or should not be admitted to the practice of law. [In re Dortch](#), 199 W.Va. 571, 486 S.E.2d 311 (1997). Even though the board of law examiners may issue a certificate of eligibility to an applicant and file it along with a character report, the Supreme Court is not required to admit that applicant.

Rule 7.1. Conditional Admission.

(a) Terms of conditional admission. — An applicant's admission to practice may be conditioned for a specified period of time, not to exceed two years at its commencement, either upon the recommendation of the Board and approval by the Supreme Court of Appeals, or by the Court upon its own motion. Recommendations for conditional admission shall be considered, but not binding upon the Court. Conditions imposed shall be tailored to detect recurrence of behavior which could render an applicant unfit to practice law, or which could pose a risk to clients or the public, and to encourage continued treatment, abstinence, or other support. Conditions may include supervised practice, substance abuse treatment and counseling, medical treatment, random drug or alcohol screening, mental health treatment and counseling, financial counseling, or other terms appropriate under the circumstances. The terms adopted by the Court shall be set forth in a Conditional Admission Order filed with the Clerk of the Supreme Court of Appeals, and copies of the Order shall be provided to the Board, the Office of Disciplinary Counsel, the applicant, and the West Virginia State Bar. 

(b) Conditional Admission Agreement. — The terms ordered by the Court shall be set forth in a Conditional Admission Agreement, which may also include terms deemed necessary by the Board for monitoring of the applicant's compliance with the Court's order. Unless otherwise ordered by the Court, the contents of the Conditional Admission Agreement shall remain confidential to anyone not directly involved in the monitoring of the applicant's compliance with the Agreement. The Agreement shall be signed by the Board's President or designee, by the applicant, and by the Clerk. The applicant's compliance with the Agreement shall be monitored by the Bar Admissions Administrator, who may take such action as is necessary to monitor compliance with the terms of the Agreement, including, without limitation, referral for local monitoring by an attorney in the applicant's community, referral to a lawyer assistance program, requiring that the applicant maintain residency in a specific area if necessary to monitor compliance with the Agreement, requiring the applicant to submit physical or written evidence or other verification of compliance with the Agreement, and requiring the applicant to submit to an assessment by a medical or mental health professional.


(c) Modification and revocation of conditional term. — Where the Bar Admissions Administrator has a reasonable belief either that the applicant is in violation of the Conditional Admission Agreement or that the applicant's circumstances have changed such that a modification of the agreement is necessary, the Bar Admissions Administrator shall give written notice to the applicant of the alleged violation or proposed modification. Unless, within twenty days of receipt of the written notice, the applicant consents to the modification or revocation of the Agreement, the Administrator shall schedule a hearing under Rule 6.0, and shall proceed as set forth under that rule. An applicant whose conditional admission has been revoked is prohibited from reapplying for admission until two years have passed from the date of the revocation, unless the Court orders otherwise.

(d) Completion of conditional term. — At the conclusion of the conditional admission period, the Board shall make a written recommendation to the Court as to whether the conditions attached to the applicant's admission should be lifted, modified, or extended, or whether the applicant's conditional admission should be revoked. Not later than five years after the conditional admission was first granted, the Court shall remove the conditions placed upon admission or decline to admit the applicant to the practice of law. Copies of the Court's final Order on the conditional admission shall be provided to the Board, the Office of Disciplinary Counsel, the applicant, and the West Virginia State Bar.

(e) Authority of the Lawyer Disciplinary Board. — Nothing in these rules shall restrict or diminish the authority of the Lawyer Disciplinary Board or the Office of Disciplinary Counsel with respect to complaints filed against conditionally admitted applicants. Where the Board of Law Examiners has probable cause to believe that a conditional admission applicant has violated the terms of the Conditional Admission Order or Conditional Admission Agreement in a manner implicating the Rules of Professional Conduct, the Board may inform the Office of Disciplinary Counsel of the same.

[As amended by order entered November 20, 2012, effective January 1, 2013.]

Rule 8.0. Admission pro hac vice.

(a) General Rule. — A lawyer who is not a member of the West Virginia State Bar, but is currently licensed and authorized to practice law in another state, territory, or possession 

the United States of America (hereinafter called an "out-of-state lawyer") may apply to appear as counsel *pro hac vice* in a particular case before any court, board or administrative agency (hereinafter called "tribunal") in the State of West Virginia upon compliance with this rule, if like courtesy or privilege is extended to members of the West Virginia State Bar in such other jurisdiction.

(b) Association of Local Counsel. — No out-of-state lawyer may appear *pro hac vice* before any tribunal in West Virginia unless the out-of-state lawyer has first associated in that case with a lawyer — or other lawyers in the same law firm who have previously made an appearance in the case — who are active members in good standing of the West Virginia State Bar (hereinafter called "local counsel"), who maintain an actual physical office equipped to conduct the practice of law in the State of West Virginia, which office is the primary location from which local counsel practice law on a daily basis. The name and West Virginia Bar ID number of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the case. Local counsel shall personally appear and participate in pretrial conferences, hearings, trials, or other proceedings actually conducted before the tribunal. Local counsel shall further attend the taking of depositions and other events that occur in proceedings that are not actually conducted before the judge, tribunal or other body of the State of West Virginia, unless the presiding judge permits local counsel to appear by telephone or other electronic means. Local counsel associating with an out-of-state lawyer in a particular case shall accept joint responsibility with the out-of-state lawyer to the client, other parties, witnesses, other counsel and to the tribunal in that particular case. Any pleading or other paper required to be served (whether relating to discovery or otherwise) shall be invalid unless it is physically or electronically signed by local counsel. The tribunal in which such case is pending shall have full authority to deal with local counsel exclusively in all matters connected with the pending case. If it becomes necessary to serve notice or process in the case, any notice or process served upon local counsel shall be deemed valid as if served on the out-of-state lawyer.


(c) Procedure For Applying. — Appearance *pro hac vice* in a case is subject to the discretion and approval of the tribunal where such case is pending. An out-of-state lawyer desiring to appear *pro hac vice* under this rule shall comply with the procedures set forth herein for each case in which *pro hac vice* status is requested. For good cause shown, a tribunal may permit an out-of-state lawyer to appear *pro hac vice* on a temporary basis prior to completion by the out-of-state lawyer of the application procedures set forth herein. At the time such temporary admission is granted, the tribunal shall specify a time limit within which the out-of-state lawyer must complete the application procedures, and any temporary *pro hac vice* admission shall be revoked in the event the out-of-state lawyer fails to complete the application procedure within the time limit.

In order to appear *pro hac vice* as counsel in any matter pending before a tribunal in the State of West Virginia, an out-of-state lawyer shall deliver to local counsel to file with the tribunal — and The West Virginia State Bar — a verified application listing (1) the action, suit, proceeding or other matter which is the subject of the application; (2) the name, address and telephone number of the registration or disciplinary agency of all state courts, the District of Columbia or of the country in which such person is admitted, and the out-of-state lawyer's unique bar registration number for each jurisdiction in which the out-of-state lawyer is admitted; (3) the name and address of the member of The West Virginia State Bar who will be local counsel in the matter; (4) all matters before West Virginia tribunals or bodies in which such person is or has been involved in the preceding 24 months, including all matters in

which the applicant has practiced on a temporary basis under Rule 5.5 of the Rules of Professional Conduct; (5) all matters before West Virginia tribunals or bodies in which any member of the petitioner's firm, partnership, corporation or other operating entity is or has been involved in the preceding 24 months; (6) a representation by the applicant for each State, the District of Columbia or any other country where said applicant has been admitted to practice, stating whether the applicant is in good standing with the bar of every such jurisdiction and that he or she has not been disciplined in any such jurisdiction within the preceding 24 months; (7) an agreement to comply with all laws, rules and regulations of West Virginia state and local governments, where applicable, including taxing authorities and any standards for pro bono civil and criminal indigent defense legal services; (8) local counsel's agreement to participate in the matter evidenced by the local attorney's endorsement upon the verified statement of application, or by written statement of the local attorney attached to the application; (9) a non-refundable application fee of three hundred-fifty dollars (\$350) payable to the West Virginia State Bar for each individual applicant in each individual *pro hac vice* admission for each separate case before a tribunal. The application fee shall accompany the verified statement of application for *pro hac vice* admission that is sent to The West Virginia State Bar, and the applicant's motion for *pro hac vice* admission shall include a verified statement that the application fee of three hundred-fifty (\$350) has been paid to The West Virginia State Bar. Separate *pro hac vice* admission shall be required in every case and every tribunal in which the applicant seeks to act as counsel. For purpose of this rule, each civil action with a case number shall constitute a single case. Separate *pro hac vice* admission is required for each case where there is a complaint with more than one plaintiff and each plaintiff is assigned a separate civil action number. See *State ex rel. J.C. v. Mazzone*, 223 W.Va. 457, 759 S.E. 2d 200 (2014). The West Virginia State Bar has authority to promulgate a mandatory form for use in making the verified application required by this rule.

(d) Grounds for denial. — If a complete and truthful statement of application is not filed, or if inquiry by the tribunal concerning the applicant's admission and ethics in another jurisdiction indicates, or if the applicant's appearances within the State of West Virginia within the past 24 months — including temporary practice under Rule 5.5 of the Rules of Professional Conduct — are numerous or frequent or involve improper conduct, the tribunal may deny such person the continuing privilege of appearance.

(e) Annual Fee. — Out-of-state lawyers admitted *pro hac vice* for one year or more in one or more cases must pay an annual fee of three hundred-fifty (\$350) in addition to the application fee required in Rule 8(c). The annual fee is charged per lawyer, not per case. The West Virginia State Bar will provide an annual statement of fees due to each out-of-state attorney after the initial application fee required in Rule 8(c) is submitted. Failure to pay the annual fee within thirty days of the due date in any annual statement will result in termination of the *pro hac vice* admission.

(f) Transfer Of Venue And Appeal. — The out-of-state lawyer's *pro hac vice* admission shall be deemed to continue in the event the venue in the case or proceeding is transferred to another tribunal; provided, however, that the tribunal having jurisdiction over such transferred case shall have the discretion to revoke the authority of the out-of-state lawyer to appear *pro hac vice*. If the case or proceeding is appealed to the Supreme Court of Appeals of West Virginia or an extraordinary proceeding is brought in the Supreme Court of Appeals of West Virginia, the out-of-state lawyer's *pro hac vice* admission shall not be deemed to continue in that tribunal, and the out-of-state lawyer must make a separate application for admission *pro hac vice* before the Supreme Court of Appeals. 

(g) Duty To Report Status. — An out-of-state lawyer admitted *pro hac vice* has a continuing obligation during the period of such admission to advise the tribunal promptly of any disposition made of pending disciplinary charges or the institution of any new disciplinary proceedings or investigations. The tribunal shall advise The West Virginia State Bar if the tribunal denies or revokes the out-of-state lawyer's permission to appear *pro hac vice*.

(h) Record-Keeping. — The West Virginia State Bar will maintain an electronic database necessary for the administration and enforcement of this rule, and may require transactions under this rule to be completed electronically.

(i) Disciplinary Jurisdiction Of The West Virginia State Bar. — An out-of-state lawyer admitted *pro hac vice* pursuant to this rule shall be subject to the jurisdiction of all tribunals and agencies of the State of West Virginia, and The West Virginia State Bar, with respect to the laws and rules of West Virginia governing the conduct and discipline of out-of-state lawyers to the same extent as an active member of The West Virginia State Bar. An applicant or out-of-state lawyer admitted *pro hac vice* may be disciplined in the same manner as a member of The West Virginia State Bar.

(j) Non-Compliant Filings. — It shall be the duty of every circuit clerk to reject any pleading or other document tendered for filing in the office of said clerk which is not signed or otherwise executed as required by this rule. Any document filed in violation of this rule may be expunged as a fugitive document; provided, however, that any party shall have a period of thirty days after notice to comply with this rule by filing a certification with the circuit clerk signed by local counsel and identifying the pleadings and documents thereby affected.

(k) In-State Services Related to Out-of-State Proceedings. — Subject to the requirements and limitations of Rule 5.5 of the West Virginia Rules of Professional Conduct, an out-of-state lawyer may provide the following services without the entry of a *pro hac vice* order:

- (1) In connection with a proceeding pending outside of West Virginia, an out-of-state lawyer admitted to appear in that proceeding may render legal services in West Virginia pertaining to or in aid of such proceeding.
- (2) In connection with a case in which an out-of-state lawyer reasonably believes he is eligible for admission *pro hac vice* under this rule: (a) the out-of-state lawyer may consult in West Virginia with a member of The West Virginia State Bar concerning a pending or potential proceeding in West Virginia; (b) the out-of-state lawyer may, at the request of a person in West Virginia contemplating or involved in a proceeding in West Virginia, consult with that person about that person's retention of the out-of-state lawyer in connection with that proceeding; and (c) on behalf of a client residing in West Virginia or elsewhere, the out-of-state lawyer may render legal services in West Virginia in preparation for a potential case to be filed in West Virginia.
- (3) An out-of-state lawyer may render legal services to prepare for and participate in an alternative dispute resolution process, including arbitration, mediation, or other dispute-resolution system involving a third-party neutral, regardless of where the alternative dispute resolution process or proceeding is expected to take place or actually takes place.

[As amended by order entered March 1, 1995, effective April 1, 1995; by order entered February 25, 1998,



effective May 1, 1998; and by order entered April 17, 2000, effective December 1, 2000; and provisionally approved by order entered November 26, 2002, effective immediately; amended by order adopted March 19, 2007, effective July 1, 2007; amended by order adopted February 11, 2010, effective July 1, 2010; and amended by order adopted September 20, 2014, effective January 1, 2015.

NOTE: This rule's requirement that a pro hac vice sponsor be a member of the State Bar and practice law on a daily basis from an office physically located in West Virginia does not violate the Privilege and Immunities Clause of the United States Constitution as there exists a substantial reason for rigorously regulating the practice of law by lawyers who are not members of the State Bar when appearing in West Virginia pro hac vice; the State must assure not only the integrity and competency of the nonmember lawyers but also their availability, accessibility, and accountability. *Parnell v. Supreme Court of Appeals*, 926 F. Supp. 570 (N.D.W.Va. 1996), *aff'd*, 110 F.3d 1077 (4th Cir. 1997). Because subdivision (b) of this rule accords equal treatment to nonresidents and residents, and because nonresidents can qualify as local counsel under this rule, there is no residency classification that requires scrutiny under the privileges and immunities clause. *Parnell v. Supreme Court of Appeals*, 110 F.3d 1077 (4th Cir. 1997). Even if subdivision (b) of this rule were to amount to an in-state residency requirement, the privileges and immunities protections still do not apply to the activity of sponsoring pro hac vice applicants, because that activity is not a fundamental component of the right to practice law, and thus is not a cognizable property right under the Fourteenth Amendment. *Parnell v. Supreme Court of Appeals*, 110 F.3d 1077 (4th Cir. 1997).

Rule 9.0. Limited permission of attorneys of other states.

(a) Indigent legal services or public defender program attorneys. — An attorney who is enrolled in a criminal law or poverty law and litigation graduate program in an approved law school or who, after graduation from an approved law school, is employed by or associated with an organized legal services or public defender program providing legal assistance to indigents and who is a member of a court of last resort of another state (the term "state" including Territories and the District of Columbia), shall be permitted to practice before the courts of this State in all causes in which he or she is associated with an organized legal services or public defender program sponsored, approved or recognized by the Board of Law Examiners. Permission to practice under this rule shall become effective upon filing with the Board of Law Examiners (1) a certificate of any court of last resort certifying that the attorney is a member in good standing at the bar of that court; and (2) a statement signed by a representative of the law school that the attorney is enrolled in the above specified graduate program; or (3) a statement signed by a representative of the organized legal services or public defender program that the attorney is currently associated with such program; and (4) an application in the form required by Rule 5.0, et seq., and reviewed in accordance with that rule; (5) an application fee as set forth in the fee schedule; and (6) the issuance of a certificate of limited permission by the Board following the oath or affirmation required by Rule 7.0(c).

(b) Termination of limited permission. — Permission to practice under this rule shall cease to be effective whenever the attorney ceases to be enrolled in or associated with such program. When an attorney permitted under this rule ceases to be enrolled or associated, a statement to that effect shall be filed with the Board of Law Examiners by a representative of the law school or organized legal services or public defender program. Such permission to practice shall remain in the discretion of the Board but in no event shall such permission to practice under this rule remain in effect longer than sixty (60) months for any individual permitted to practice under this rule.

(c) Disciplinary actions. — Attorneys permitted to practice under this rule may be suspended from practice in the manner now or hereafter provided by rule for the suspension or disbarment of attorneys.



(d) Effect of other rules. — This rule is applicable notwithstanding (1) any rule of this Court governing admission to the bar which is in effect on the date this rule becomes effective, and (2) any rule of this Court governing admission to the bar which becomes effective after the effective date of this rule except a rule which expressly refers to this rule.

[As amended by order entered September 14, 1989; and by order entered June 24, 1992, effective July 1, 1992; by order entered November 20, 2012, effective January 1, 2013.]

Rule 10.0. Rule relative to legal assistance by law students to persons unable to pay for legal services.

(a) General 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. As one means of providing assistance to lawyers who represent clients unable to pay for such services, and to encourage law schools and supervising attorneys to provide clinical instruction in trial work of varying kinds, the following rule is adopted.

(b) Scope of rule. — An eligible law student may appear, with a supervising attorney, in any court or before any administrative tribunal in this State on behalf of the State of West Virginia or any indigent person if the person on whose behalf the student is appearing has indicated in writing his or her consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:

(1) Civil matters. — In civil actions or cases, the supervising lawyer shall be required to be personally present.

(2) Criminal and other matters. — In all criminal and related matters, the supervising lawyer must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted. This provision shall apply to all matters in which the minimum due process requirements approximate the requirements of criminal cases. When a student represents the State, the supervising lawyer shall be the prosecuting attorney or his or her designated assistant prosecuting attorney.


(c) Filing of written consent. — 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.

[As amended by order entered November 21, 1997, effective January 1, 1998.]

Rule 10.1. Requirements and limitations.

In order to make an appearance pursuant to this rule, the law student must:

(a) Be enrolled in a law school approved by the American Bar Association, or its equivalent, or have graduated from such school within the last six months, provided the student complies with Rule 10.2(a).

(b) Have completed legal studies amounting to at least four (4) semesters or the equivalent if the school is on some basis other than a semester basis. 

- (c) Demonstrate that he or she is in good academic standing or was in such standing at the time of graduation, has not been convicted of a crime involving moral turpitude or a felony, and has not been subjected to honor code discipline by the law school.
- (d) Be introduced to the court in which the student is appearing by the supervising lawyer who shall be admitted to practice by the West Virginia Supreme Court of Appeals.
- (e) Neither ask for nor receive any compensation or remuneration of any kind for his or her services from the person on whose behalf the services are rendered, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the State from paying compensation to the eligible law student.
- (f) Certify in writing that he or she has read and is familiar with, and will be governed in the conduct of his or her activities under this rule by the Code of Professional Responsibility adopted by this Court.

[As amended by order entered November 21, 1997, effective January 1, 1998.]

Rule 10.2. Certification.

The law school dean or his or her designee shall certify that the student has complied with 10.1(a), (b) and (c), and the certification:

- (a) Shall be filed with the Clerk of the Supreme Court of Appeals and, unless it is sooner withdrawn, it shall remain in effect until June 15th for a student sitting for the February bar examination, until November 15th for a student sitting for the July bar examination, until a student has been notified that he or she has not achieved a passing score on the bar examination, or until the student has been licensed to practice law in the courts of this State and has registered as a member of the West Virginia State Bar, whichever is earlier. In order to be eligible for appearance under this rule, the law student must sit for the bar examination immediately following his or her graduation from law school. Nothing in this Rule shall be construed to allow or permit a student to appear, participate or engage in activities beyond those described in Rules 10.0, et seq., and, particularly, as described in Rules 10.0(b) and 10.3(a) and (b).
- (b) May be withdrawn by the dean by mailing a notice to that effect to the Clerk of the Court.
- (c) May be terminated by the Court. Notice of the termination shall be filed with the Clerk of the Court.

[As amended by order entered November 29, 1989, effective January 1, 1990; by order entered June 26, 1990, effective August 1, 1990; by order entered May 16, 1991, effective May 16, 1991; and by order entered June 24, 1992, effective July 1, 1992.]

Rule 10.3. Other activities.

- (a) An eligible law student may engage in other activities, under the supervision of a member of the bar of the court, but outside the personal presence of that lawyer, including:
- (1) 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.

(2) 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.

(3) Assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications for and supporting documents for post-conviction relief. All such assistance must be supervised by the attorney of record, and all documents submitted to the Court on behalf of such a client must be signed by the attorney of record.

(4) Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If he or she participated in drafting only a portion of it, that fact may be mentioned.

(b) An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer.

Rule 10.4. Supervision.

The member of the Bar under whose supervision an eligible law student does any of the things permitted by this rule shall:

(a) Be a lawyer in good standing in the West Virginia State Bar.

(b) Assume personal professional responsibility for work undertaken by the student.

(c) Assist the student in his or her preparation to the extent the supervising lawyer considers it necessary.

(d) Not undertake the supervision of more than two eligible law students at the same time unless the supervising lawyer is a regularly appointed faculty member of a law school approved by the American Bar Association and the eligible students are enrolled for academic credit in a course taught by such faculty member at the time.

(e) Be responsible for monitoring the eligible student's activities to ensure that participation by the student in the practice of law is limited to that outlined in Rule 10.0(b).

[As amended by order entered June 24, 1992, effective July 1, 1992.]

Rule 10.5. Miscellaneous.

Nothing contained in the rule shall affect the right of any person who is not admitted to practice law to do anything that he or she might lawfully do prior to the adoption of this rule.

