

# **RULES GOVERNING ADMISSION TO THE BAR**

## **ACKNOWLEDGMENTS**

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# Rules Governing Admission to the Bar

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## ARTICLE 1

### Applications

#### 15-101. Definitions; title.

A. **Definitions.** For purposes of these rules:

- (1) "notice" means notice sent to the person affected by such action which shall be effective upon placing the document or letter in the United States mail;
- (2) "MBE" means the Multi-State Bar Examination;
- (3) "MPRE" means the Multi-State Professional Responsibility Examination;
- (4) "practice of law" means being actively and continuously engaged in full-time, gainful employment in the performance of legal services;
- (5) "lawyer" means a person, admitted to a bar, who by education and training may legally perform legal services for others;
- (6) "legal service" means advising, advocating or counseling to or for others as to a matter involving law which may not be lawfully performed by a nonlawyer;
- (7) "grader" means one who is scholastically, professionally and psychologically qualified to review and grade the essay portions of the bar examination and who is appointed by the Board of Bar Examiners;
- (8) "in good standing" means admitted to the bar of another state and:
  - (a) has not been disbarred;
  - (b) is not under disciplinary suspension or suspended for nonpayment of bar dues or failure to complete mandatory continuing legal education requirements;
  - (c) has not resigned from the bar of such other state while under disciplinary suspension or while under disciplinary proceedings;
  - (d) has not been the subject of current or pending disciplinary proceedings; or
  - (e) if the applicant has been disbarred or suspended, has been duly and fully reinstated;
- (9) "serious crime" means:
  - (a) any felony; or
  - (b) any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime, involves:
    - (i) conduct as an attorney;
    - (ii) interference with the administration of justice;

- (iii) false swearing;
- (iv) misrepresentation;
- (v) fraud;
- (vi) willful failure to file tax returns;
- (vii) deceit;
- (viii) bribery;
- (ix) extortion;
- (x) misappropriation;
- (xi) theft; or

(xii) an attempt to commit, a conspiracy to commit or a solicitation of another to commit a "serious crime"; and

(10) "state" means any of the fifty (50) states, territories or protectorates of the United States and the District of Columbia.

B. **Title.** These rules shall be known as the Rules Governing Admission to the Bar.

### **15-102. Admission requirements.**

The Supreme Court shall determine and prescribe by rules the qualifications and requirements for admission to the practice of law, including the amount of fee to be charged applicants for admission. The rules governing requirements for admission to the bar will be furnished by the Board of Bar Examiners upon request of any applicant. Anyone desiring to be admitted to the practice of law in the State of New Mexico may apply for admission by examination as administered in New Mexico under Article 2 of these rules or by motion without examination under Rule 15-107 NMRA.

### **15-103. Qualifications.**

A. **Requirements mandatory.** License to practice law shall be granted only to applicants who fulfill all of the requirements of these rules.

B. **Qualifications.** Every person seeking admission to practice law in New Mexico shall file a formal application as prescribed by these rules and as required by the board. Submission of the application shall constitute submission by the applicant to the jurisdiction of the New Mexico Board of Bar Examiners until a final determination upon admission of the applicant may be completed. Every applicant shall have the burden of establishing to the satisfaction of the board that the applicant possesses all of the following qualifications:

- (1) is at least eighteen (18) years of age;
- (2) is a graduate with a juris doctor or bachelor of laws and letters degree (at the time of the bar examination for which application is made or at the time of application for admission by transferred Uniform Bar Examination (UBE) score) of a law school formally accredited by the American Bar Association or is a graduate of any law school who has been engaged in the practice of law in another state of states for at least four (4) of the six (6) years immediately preceding the person's application for admission to practice in New Mexico;
- (3) is a person of good moral character, physically and mentally fit to practice law;
- (4) is, if ever admitted to practice in any other state or states, in good standing in such state or states;
- (5) is professionally qualified for admission to the bar of New Mexico;
- (6) is in compliance with all child support and spousal support obligations imposed under a "judgment and order for support" as defined in the Parental Responsibility Act, Section 40-5A-1 through 40-5A-13 NMSA 1978, or imposed under a child support or spousal support order entered by any other court of competent jurisdiction. If an applicant is not in compliance with a child support or spousal support obligation, the applicant will not be recommended for admission to the bar until the applicant provides the board with evidence that the applicant is in compliance with the judgment or order. If the applicant has appeared on the Human Services Department's certified list of obligors, the applicant shall submit a certified statement from the Human Services Department that the applicant is in compliance with the judgment and order for support. In all other cases, the

applicant shall provide evidence acceptable to the board of compliance with all applicable child and spousal support orders; and

(7) is a citizen or national of the United States, an immigrant alien lawfully admitted for permanent residence in the United States, or an alien otherwise authorized to work lawfully in the United States.

**C. Character and fitness standards and investigation.**

(1) The purpose of character and fitness investigation before admission to the Bar is to assure the protection of the public and to safeguard the justice system.

(2) The applicant bears the burden of proving good character in support of the application.

(3) The revelation of discovery of any of the following may be treated as cause for further inquiry before the board determines whether the applicant possesses the character and fitness to practice law:

- (a) unlawful conduct;
- (b) academic misconduct;
- (c) misconduct in employment;
- (d) acts involving dishonesty, fraud, deceit, or misrepresentation;
- (e) acts which demonstrate disregard for the rights or welfare of others;
- (f) abuse of legal process, including the filing of vexatious or frivolous lawsuits;
- (g) neglect of financial responsibilities or professional obligations;
- (h) violation of an order of a court, including child support orders;
- (i) conduct that evidences current mental or emotional instability that may impair the ability to practice law;
- (j) conduct that evidences current drug or alcohol dependence or abuse that may impair the ability to practice law;
- (k) denial of admission to the bar in another jurisdiction on character and fitness grounds;
- (l) disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction;
- (m) making of false statements, including omissions, on bar applications in this state or any other jurisdiction; or
- (n) as otherwise determined by the board for just and good cause.

(4) The board shall determine whether the present character and fitness of an applicant qualifies the applicant for admission. In making this determination, the following factors should be considered in assigning weight and significance to prior conduct:

- (a) the applicant's age at the time of the conduct;
- (b) the recency of the conduct;
- (c) the reliability of the information concerning the conduct;
- (d) the seriousness of the conduct;
- (e) the factors underlying the conduct;
- (f) the cumulative effect of the conduct or information;
- (g) the evidence of rehabilitation;
- (h) the applicant's positive social contributions since the conduct;
- (i) the applicant's candor in the admissions process; and
- (j) the materiality of any omissions or misrepresentations.

(5) The applicant has a continuing obligation to update the application with respect to all matters inquired of on the application. This obligation continues during the pendency of the application, including the period when the matter is on appeal to the board or the Court.

**D. Conviction; rehabilitation.** A person who has been convicted of a serious crime as defined under these rules shall prove good moral character by demonstrating by clear and convincing evidence that the applicant is rehabilitated and satisfies all other requirements for good moral character.

**E. Examination.** Except as otherwise provided with respect to law faculty at the University of New Mexico and applicants for admission by motion under Rule 15-107 NMRA, all applicants shall

be required to take and pass the bar examination in New Mexico or meet the requirements of these rules for admission by transferred Uniform Bar Examination score.

F. **Ethics Exam.** Applicants must receive a minimum scaled score of eighty (80) on the Multi-state Professional Responsibility Examination (MPRE) prepared and administered by the National Conference of Bar Examiners to be eligible for admission. Applicant must pass the MPRE within one (1) year after the date of notification that the applicant has passed the bar examination or within one (1) year after the date of administration of the Uniform Bar Examination in which a transferred score was earned. For purposes of this paragraph, the date of the notification shall be the date notification is mailed to the applicant by the secretary of the board.

G. **Course on New Mexico law.** All applicants must submit evidence of in-person attendance at, and successful completion of, a course approved by the Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism, within three (3) years prior to being approved for admission.

### 15-104. Application.

A. **Form of application.** All applications shall be under oath on forms provided by the Board of Bar Examiners, shall contain such information relating to the applicant's qualifications and eligibility as may be required by the board, and shall include applicant's age, residence, addresses for at least the five (5) years immediately preceding the date of application, citizenship, occupations, general and legal background, and information as to the applicant's background and moral character. The Supreme Court may revoke the license of any attorney at any time upon satisfactory showing that the same was obtained by false representations, fraud, or deceit.

B. **Filing requirements.** Applications for admission to the bar of New Mexico shall be submitted in duplicate on forms prescribed by the Board of Bar Examiners from time to time. Applications shall be filed with the board at its executive offices. Applications to take the bar examination shall be filed as follows:

(1) The filing deadline for the February examination is on September 10th immediately preceding the examination and the filing deadline for the July bar examination is on January 10th immediately preceding the examination.

(2) Applicants seeking a re-examination must file by January 10th for the February bar examination and June 10th for the July bar examination. No application for re-examination shall be accepted after the applicable deadline.

(3) No application will be accepted after the applicable filing date set forth in this rule except upon payment of such additional late fees as required by these rules.

C. **Documents needed.** The following documents shall be furnished with the application:

(1) a copy of the Federal Bureau of Investigation identification record of the applicant and a copy of the New Mexico Department of Public Safety identification record of the applicant;

(2) a credit report from one (1) of the three (3) major credit reporting agencies printed within thirty (30) days of submission of the application for admission. The credit report shall be included with the application for admission;

(3) a properly authenticated transcript (sent from the law school) evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school formally accredited by the American Bar Association along with a completed law school certification on a form prescribed by the board; except that if the applicant is not a graduate of an accredited law school, the applicant shall transmit with the application:

(a) a certificate of admission in another state;

(b) three (3) certificates vouching for the applicant's good moral character by members of the bar of such other state; and

(c) one (1) or more certificates by a judge or judges of the highest court of original jurisdiction in such other state, or the clerk thereof, to the effect that the applicant has been actively engaged in the actual practice of law in that state for at least four (4) years prior to the date of the certificate, and further that applicant is in good standing in the bar of such state and has not been disbarred, been placed under disciplinary suspension, or resigned from such bar while under

disciplinary investigation, is not the subject of any pending disciplinary proceedings in such state, or if the applicant has been suspended or disbarred, that the applicant has been duly reinstated. Certificates of admission from other states may be sent directly to the board under separate cover. All such papers will be returned to the applicant in due course. Other documents submitted will be returned to the applicant, if requested, upon approval by the chair or vice chair of the board; and

(4) character and fitness statements from three (3) licensed attorneys in good standing in any jurisdiction in the United States, who are familiar with the applicant's qualifications, certifying that the applicant is a person of good moral character and physically and mentally qualified for admission to the bar of New Mexico.

## **15-105. Application fees.**

A. **Fees.** Every applicant shall pay the fees as prescribed by the Board of Bar Examiners from time to time. The following fees are fixed, until changed by the board, for applicants seeking admission by examination:

(1) five hundred dollars (\$500.00) for applicants whose graduation from law school is less than one (1) year prior to filing the application;

(2) a reduced fee of one hundred dollars (\$100.00) for applicants who apply to repeat the examination within one (1) year after the first unsuccessful examination result. If the applicant does not successfully complete the examination within the first year, the applicant shall pay the full applicable application fee for all subsequent re-examinations; an additional fee may also be required by the board to update the investigative report;

(3) reasonable additional costs to be determined by the board, in connection with any investigations or hearings. Such costs shall include, but not be limited to, board attorney fees, court reporter fees, medical evaluations, and any other fees for services to complete the investigation and hearing. Payment of such fees shall be a prerequisite for admission or for consideration of subsequent reapplications. In all cases, the applicant shall bear the applicant's own costs associated with the application, investigation, and hearing;

(4) one thousand dollars (\$1,000.00) for all other applicants;

(5) late filing fees shall be assessed as follows:

(a) two hundred dollars (\$200.00) if an application is received and filed on or before November 2 immediately preceding the February bar exam and April 2 immediately preceding the July bar exam; and

(b) five hundred dollars (\$500.00) if an application is received and filed on or before January 2 immediately preceding the February bar exam and June 2 immediately preceding the July bar exam. No applications for first-time applicants will be accepted after these dates.

B. **Remittance of fees.** All remittances for fees shall be made payable to the New Mexico Board of Bar Examiners, shall be deposited to an account designated as New Mexico Board of Bar Examiners general fund, and shall be disbursed by order of the board in carrying out the functions, duties, and powers vested in said board. Application fees and costs are not refundable and will be applied toward the expenses of the board, including appropriate investigation by the National Conference of Bar Examiners.

C. **Budget.** The board shall submit on or before January 1 of each year a proposed budget to the Supreme Court.

D. **Audit.** The board shall likewise, on or before March 1 of each year, submit to the Supreme Court an accounting and audit of all funds received and disbursed during the prior calendar year. Such audit shall be performed by an auditor to be selected by the Supreme Court.

E. **Compensation.** Members of the board shall receive mileage and per diem at the same rate as provided for public officials and employees of the state and any other compensation for service to the board as approved by the Supreme Court.

### **15-106. Repeat applications.**

There shall be no limit on the number of repeat examinations an applicant may take. However, a completely new application shall be filed for each examination, accompanied by the appropriate application fee prescribed by Rule 15-105 NMRA. The secretary shall cause an appropriate reinvestigation of fitness to be made if directed by the board, or, if the applicant's last investigative report was dated more than fifteen (15) months prior to the date of the latest application, and charge a fee under Rule 15-105 NMRA. Applicants seeking reexamination must file their application for repeat examination in accordance with the deadlines set forth in Rule 15-104 NMRA.

### **15-107. Admission by motion.**

A. An applicant who meets the requirements of Rules 15-103 and 15-104 NMRA and this rule may, upon motion, be admitted to the practice of law in New Mexico if the applicant

(1) has been admitted to practice law in one (1) or more reciprocal states, territories, or protectorates of the United States of America, or the District of Columbia, as such are defined in Paragraph F of this rule and is currently an active member in good standing in at least one (1) reciprocal state and has been admitted to and engaged in the active practice of law as defined in Paragraph D of this rule in one (1) or more states, territories, or protectorates of the United States of America, or the District of Columbia, including New Mexico, for at least five (5) of the past seven (7) years preceding application to New Mexico;

(2) has never been denied certification because of character and fitness to practice law in New Mexico or any other state;

(3) has not, within the five (5) years preceding application under this rule, taken and failed the New Mexico Bar Examination;

(4) is not now nor ever has been admitted to the practice of law in New Mexico, unless the applicant voluntarily withdrew or resigned from membership in the State Bar of New Mexico while in good standing;

(5) has not been previously denied admittance to practice law on application or motion to practice law in New Mexico or any other state;

(6) has not previously engaged in the unauthorized practice of law in New Mexico or any other state;

(7) establishes that the applicant is currently a member in good standing in every state where the applicant is admitted to practice law or, if the applicant is not presently a member eligible to practice in a state, territory, protectorate, or District of Columbia, establishes that the applicant resigned in good standing. An applicant who is disbarred or suspended for any reason from the practice of law in another state at the time of filing an application for admission on motion shall not be eligible for admission on motion;

(8) submits evidence of a passing scaled score on the Multistate Professional Responsibility Examination as described in Paragraph E of Rule 15-205 NMRA;

(9) otherwise establishes to the satisfaction of the Board and the Supreme Court of New Mexico that the applicant possesses the character and fitness to practice law in this state; and

(10) submits evidence of in-person attendance at, and successful completion of, a course approved by the Supreme Court, which shall include Indian law, New Mexico community property law, and professionalism, before being approved for admission.

B. **Amendment of application.** Every applicant is required promptly to amend his or her application in the event any of the answers on the application has been affected by intervening conduct or events.

C. **Documents needed.** The following documents shall be furnished with each application, in addition to any and all other information that may be required by the Board:

(1) a copy of the Federal Bureau of Investigation identification record of the applicant and a copy of the New Mexico Department of Public Safety identification record of the applicant;

(2) a properly authenticated transcript (sent from the law school) evidencing graduation with a juris doctor or bachelor of laws and letters degree from a law school formally accredited by the



American Bar Association including a completed law school certification on a form prescribed by the Board;

(3) a certificate of admission, currently valid license to practice law, or certificate of good standing from every state where admitted;

(4) character and fitness statements from three non-related licensed attorneys in good standing in every state where the applicant is licensed to practice law, who are familiar with the applicant's qualifications, certifying that the applicant is a person of good moral character and physically and mentally qualified for admission to the bar of New Mexico;

(5) a letter from the grievance or disciplinary entity of every state, district, territory, protectorate, province or foreign country in which the applicant is admitted indicating that there are no disciplinary complaints or charges pending against the applicant;

(6) one (1) or more certificates by a judge or judges of the highest court of original jurisdiction, or the clerk thereof, or by the authority designated in such other state to provide such certificate or certificates to that effect that

(a) the applicant has been eligible to engage in the actual practice of law in that state for at least five (5) of the seven (7) years immediately prior to the date of the certificate;

(b) the applicant is in good standing in the bar of such state and has not been disbarred, placed under disciplinary suspension, or resigned from such bar while under disciplinary investigation;

(c) the applicant is not the subject of any pending disciplinary complaints or proceedings in such state; and

(d) if the applicant has been suspended or disbarred, that the applicant has been duly reinstated; and

(7) an affidavit executed by the applicant describing the applicant's active practice of law for the required durational period in every applicable jurisdiction, which shall include a detailed explanation of how it satisfies the definition of the active practice of law as set forth in Paragraph D of this rule.

#### **D. Active practice of law defined.**

(1) For the purposes of this rule, the "active practice of law" shall include the following activities, if performed in a state in which the applicant is admitted and authorized to practice law, or, if performed in a state that affirmatively permits such activity by a lawyer not admitted in that state, however, in no event shall any activities performed pursuant to any rule regarding the practice of law pending admission or in advance of bar admission in another state be accepted toward the durational requirements:

(a) representation of one or more clients in the private practice of law;

(b) service as a lawyer with a local, state, territorial or federal agency, or governmental branch, including United States military service with any branch of the United States military;

(c) full time teaching at a law school formally accredited by the American Bar Association;

(d) service as a judge in a local, state, territorial, or federal court of record of the United States;

(e) service as a judicial law clerk in a local, state, territorial, or federal court of record of the United States;

(f) service as in-house counsel provided to the applicant's employer or its organizational affiliates; or

(g) any combination of the above.

(2) "Full-time, gainful employment in the performance of legal services" is defined for the purpose of this rule to require that during each of the required five (5) years in the durational period, the applicant spent at least one thousand (1,000) hours per year engaged in one or more of the activities listed above, and derived at least fifty percent (50%) of the applicant's non-investment income from such activity or activities.

(3) The active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the state in which it was performed or in the state in which the clients receiving the unauthorized services were located.

E. **Application and filing fees.** Any applicant seeking admission to the practice of law on motion shall meet the requirements of Paragraphs A through D of this rule and shall

(1) file an application for admission by motion, including character and fitness investigation information, in a manner established by the Board, including all required supporting documents;

(2) pay the non-refundable application fee of two thousand five hundred dollars (\$2,500). There shall be no refund of, or credit for, this application fee for any reason, including but not limited to denial of admission, withdrawal of the application, or failure to pursue admission after application, regardless of the date of notification by the applicant; and

(3) as provided in Subparagraph (A)(3) of Rule 15-105 NMRA, pay all costs as determined by the Board in connection with any investigation and hearings, and bear his or her own costs associated with any application, investigation, and hearing.

F. **Reciprocal states.** Upon recommendation by the Board and due consideration by the Supreme Court of New Mexico, the Court shall approve and maintain a list of states considered “reciprocal” to New Mexico for purposes of this rule, and that list shall be posted publicly on the Board’s website. Upon recommendation of the Board, or on the Court’s own motion, the Court may modify the list of reciprocal states based upon recognition of rule changes in the various states and other relevant considerations in the Court’s discretion. The status of reciprocal states will be considered current as of the later of June 1, 2015, or the date of receipt of an application for admission by motion and the current “reciprocal” status of states determined applicable to that applicant as of such date.

## **ARTICLE 2**

### **Examinations**

#### **15-201. Written examination.**

A. **Necessity.** All applicants for admission to the bar of New Mexico shall be required to take and pass a written examination prescribed by the Board of Bar Examiners in accordance with these rules.

B. **Purpose.** The bar examination shall be designed to test the applicant's minimum competence to practice law in this state.

#### **15-202. Admission by transferred Uniform Bar Examination score.**

An applicant who meets all other requirements of these rules may be admitted to practice law in New Mexico if the applicant has earned a total scaled score of two hundred sixty (260) or higher of the Uniform Bar Examination taken in another jurisdiction within thirty-six (36) months preceding the date of application for admission.

#### **15-203. Subjects for examination.**

The examination shall be the Uniform Bar Examination (UBE) prepared by the National Conference of Bar Examiners and comprised of six (6) Multistate Essay Examination (MEE) questions, two (2) Multistate Performance Test (MPT) items, and the Multistate Bar Examination (MBE). Applicants may be tested on any subject matter listed by the National Conference of Bar Examiners as areas of law to be tested on the UBE. Questions will be unlabeled and not necessarily limited to one (1) subject matter.

### **15-204. Withdrawn.**

**Withdrawals.** — Pursuant to Supreme Court Order No. 15-8300-018, 15-204 NMRA, relating to bar admission rule questions, was withdrawn effective November 1, 2015. For provisions of former rule, see the 2015 NMRA on *NMONESOURCE.COM*.

### **15-205. Grading and scoring.**

A. **Policies and graders.** Subject to the approval of the Supreme Court, the board may adopt such grading policies as it deems appropriate provided such policies are not inconsistent with the policies applicable to grading of the UBE as coordinated by the National Conference of Bar Examiners. Graders shall be appointed by the Board of Bar Examiners for the grading of examinations.

B. **Nonidentity grading.** Every applicant shall be assigned an examination number at random. Grading of the MEE and MPT answers shall be strictly anonymous, and the information matching the names and code numbers of the applicants shall be kept in the custody of the secretary of the board, or such other person as is designated by the board, until all papers have been finally graded, all numerical or percentage grades for each applicant have been compiled, and each applicant has been determined by examination number to have either passed or failed the bar examination.

C. **Weighting; scaling; minimum passing score.** The raw scores assigned to the MEE and MPT answers by the graders shall reflect the relative quality of each answer (ranging from non-responsive to well above average). The MEE and MPT raw scores shall be combined and converted to the MBE scale to calculate written scaled scores according to the method used by the National Conference of Bar Examiners for jurisdictions that administer the UBE. The written scaled scores and the MBE scaled scores shall be combined to determine UBE total scores, with the MEE weighted thirty percent (30%), the MPT weighted twenty percent (20%), and the MBE weighted fifty (50%). Scaled scores shall be used to assure that the standard used to measure competence is not affected by the difficulty of the particular test or the ability of the applicants sitting for a particular examination. A total UBE score of two hundred sixty (260) shall be the minimum passing score.

D. **Uniformity of grading.** In order to assure maximum fairness and uniformity in grading, the Board of Bar Examiners shall prescribe standards for grading to be used by all graders. To the extent possible, all the answers to a particular question should be graded by the same grader.

### **15-206. Examination results.**

A. **Notification.** Upon completion of grading, the secretary of the board shall notify each applicant of the results of the applicant's examination, and such other information as the board may deem to be appropriate.

B. **Publication.** Bar examination statistics and other information determined by the board or Supreme Court to be nonconfidential may be made available to prospective students, applicants, members of the legal profession and to members of the public who are interested in standards for admission to the bar.

### **15-207. Unsuccessful applicants; right of inspection.**

A. **Test scores; inspection.** Beginning thirty (30) days after notice to the applicant involved and ending on the sixtieth (60th) day thereafter, any unsuccessful applicant shall be entitled to the applicant's MBE, MEE, and MPT scores and shall be entitled under conditions specified by the board to a reasonable inspection of the following:

- (1) the MEE and MPT questions of the examination;
- (2) the applicant's answers to such MEE and MPT questions; and
- (3) sample answers for each question.

B. **Inspection not allowed.** No inspection of the Multistate Bar Examination, Multistate Essay Examination, Multistate Performance Test, or the Multistate Professional Responsibility Examination questions or answers shall be allowed unless authorized by the National Conference of Bar Examiners.

C. **Bar examination grading.** Any applicant who has failed the bar examination but is otherwise qualified for admission may, within thirty (30) days of notice to the applicant of examination results, upon written request, cause the board (or member or secretary thereof) to review the mathematical accuracy of the scoring of the applicant's examination. There shall be no right to hearing or appeal with regard to the grade that an applicant received for answers to exam questions; provided, however, that before the publication of the results of the exam, a committee of the board shall review and regrade as necessary the MEE and MPT answers for any applicant whose total UBE score is within six (6) points below the minimum passing score. The total UBE score after the regrade shall be the final score for that applicant.

### **15-208. Periodic studies.**

A thorough study should be made of the bar examination results periodically to determine its effectiveness and to discover defects and suggest improvements in the bar examination system.

## **ARTICLE 3**

### **Admission**

### **15-301. Investigation, interviews and appeals.**

A. **Investigations.** The board shall conduct an investigation and otherwise inquire into and determine the character, fitness and general qualifications of every applicant for admission. In every such investigation and inquiry the board may obtain such information relating to the character, fitness and general qualifications of the applicant; and may take and hear testimony, administer oaths and affirmations and compel, by subpoena, the attendance of witnesses and the production of books, papers and documents. Any member of the board may administer such oaths and affirmations. Investigations and inquiries shall be informal, but shall be thorough, with the object of ascertaining the truth. Technical rules of evidence need not be observed. Any hearing for such purpose may be held by a division of the board consisting of not less than three members of the board, and either the board chairman, the board vice-chairman or a member of the board appointed by the board chairman to preside shall serve as the division's presiding officer, which presiding officer shall have power to issue subpoenas. A complete record shall be made of all hearings held pursuant hereto, and each applicant shall be advised of the nature of any allegations or charges made which may lead to denial of licensure, and may cross-examine adverse witnesses, be represented by counsel and present relevant evidence. Subpoenas shall be freely issued on the written request of any such applicant. Failure to respond to subpoenas issued hereunder will be an act of contempt of the Supreme Court and shall forthwith be reported by the board to the Supreme Court.

B. **Interviews.** The board, any member of the board or a committee of the board, shall investigate and may hold interviews as to an applicant's qualification. An interview is not a "hearing", as described in these rules; however, information gathered at an interview of the applicant shall be admissible at hearings and an applicant's truthfulness shall be considered relevant to the applicant's qualifications.

C. **Hearings.** The board may hold a hearing on the qualifications of any applicant. The hearing may be held by a committee of the board consisting of not less than three members of the board. The chair of the board or any member of the board appointed by the chair shall chair the committee. The applicant shall be advised of the nature of the subject and purpose of the hearing and may cross-examine witnesses, be represented by counsel and present evidence in the applicant's behalf. A record shall be made of all committee hearings. The committee chair shall have the power to issue subpoenas on behalf of the committee. Subpoenas shall be freely issued on the written request of the applicant. Failure to respond to a committee subpoena will be an act of contempt of the Supreme Court and shall be reported by the board to the Supreme Court.

D. **Appeals.** If after a hearing the board refuses to recommend the admission of an applicant, the board shall make written findings of fact and conclusions. The findings and conclusions of the

board shall be filed with the secretary of the board and a copy sent by certified or registered mail to the applicant. Any applicant aggrieved by a decision or action of the board may within sixty (60) days after the date of mailing of the findings and conclusions to the applicant, appeal to the Supreme Court by filing a petition and brief-in-chief with the clerk of the Court specifying wherein the board has erred, and by serving copies upon the secretary of the board. A docketing statement and docket fee will not be required. The record on appeal to the Supreme Court shall consist of the application and file of the board, the record of the hearing, whether by tape recording or transcript, and the findings and conclusions of the board. Within forty-five (45) days after the board has received the petition on appeal it will file a response. Oral arguments shall be made in accordance with the Rules of Appellate Procedure. The petitioner shall be responsible for making satisfactory arrangements with the secretary of the board for the record on appeal, whether by tape recording or transcript. The Supreme Court may tax the costs of appeal against the petitioner or the board, or partially against both, as it may deem equitable.

### **15-301.1. Public employee limited license.**

#### **A. Definitions.** As used in this rule:

- (1) "public employee" means any officer, employee or servant of a governmental entity, excluding independent contractors;
- (2) "governmental entity" means the state or any local public body as defined in Subparagraphs (3) and (4) of this paragraph;
- (3) "local public body" means all political subdivisions of this state and their agencies, instrumentalities and institutions;
- (4) "state agency" means any of the branches, agencies, departments, boards, instrumentalities or institutions of the state of New Mexico.

#### **B. Eligibility.** Upon application, the clerk of the Supreme Court may issue a limited non-renewable one (1) year license to an attorney who:

- (1) is admitted to practice law in another state, territory or protectorate of the United States or the District of Columbia;
- (2) is in good standing to practice law in each state in which the attorney is licensed; and
- (3) satisfies the limited license requirements set forth in this rule.

#### **C. Application procedure.** An applicant for a limited license to represent public defender clients or any governmental entity in this state shall file with the clerk of the Supreme Court an application for limited license which shall be accompanied by:

- (1) a certificate of admission to practice and good standing from each state in which the applicant is licensed to practice law and proof of compliance with Subparagraphs (1) and (2) of Paragraph B of Rule 15-103 NMRA;
- (2) a letter from the head of the governmental entity which has employed the applicant certifying employment with that governmental entity;
- (3) a certificate signed by the applicant that the applicant has read and is familiar with the New Mexico Rules of Professional Conduct and rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys; and
- (4) a docket fee in the amount of one hundred twenty-five dollars (\$125.00) payable to the New Mexico Supreme Court and disciplinary fee in the amount of one hundred fifty dollars (\$150.00) payable to the Disciplinary Board.

All fees and costs associated with an application for limited license are not refundable.

#### **D. License; issuance and revocation.**

- (1) If an applicant for a limited license to represent public defender clients or a governmental entity complies with the provisions of this rule, the clerk of the Supreme Court may issue a limited, one (1) year license to represent public defender clients or practice law as an employee of a governmental entity. This license shall not be renewed.
- (2) A limited license issued pursuant to this rule only permits the licensee to practice law in New Mexico as a public employee representing public defender clients or a governmental entity.

(3) The clerk shall revoke the limited license of any person found in violation of these rules, any rule approved by the Supreme Court or any state or federal law. Upon revocation of a limited license, the applicant shall not appear in any court in this State as an attorney;

E. **Expiration.** An attorney who is issued a limited license to represent public defender clients or practice law as an employee of a governmental entity shall take the next New Mexico bar examination for which the applicant is eligible. A limited license issued pursuant to this rule shall expire upon occurrence of the earliest of the following events:

- (1) the expiration of one (1) year from the date of issuance by the New Mexico Supreme Court;
- (2) notification that the applicant has failed the New Mexico bar exam;
- (3) termination of employment with the governmental entity;
- (4) failure of the limited licensee to take the next bar examination for which the limited licensee is eligible;
- (5) admission to the New Mexico Bar upon passing the bar examination; or
- (6) once a limited license expires or is revoked, an attorney who resides or maintains a legal residence in this State shall not be admitted to the practice of law for a particular case under the *pro hac vice* rules approved by this Court.

F. **Limited licensee status.** An attorney granted a limited license pursuant to this rule shall not be a member of the state bar but shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline. Licensees shall pay the annual disciplinary fee as part of the application process.

## 15-301.2. Legal services provider limited law license.

A. **Definitions.** As used in this rule, the following definitions apply:

- (1) "applicant" means an attorney who meets the eligibility requirements set forth in Paragraph B of this rule and who completes the application process in Paragraph C of this rule;
- (2) "qualified legal services provider" means a not for profit legal services organization whose primary purpose is to provide legal services to low income clients or a legal department within a non-profit organization that employs at least one (1) lawyer full-time to provide legal services to low income clients; and
  - (a) is an organization described in Section 501(c)(3) and exempt from federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 or corresponding provisions of federal income tax laws from time to time in effect;
  - (b) is registered with the New Mexico Attorney General Registry of Charitable Organizations in compliance with the New Mexico Charitable Solicitations Act and;
  - (c) is recommended by the New Mexico Commission on Access to Justice.

B. **Eligibility.** Upon application, the clerk of the Supreme Court may issue a legal services limited license to represent legal services clients through a qualified legal services provider to an attorney who meets the following conditions:

- (1) is an inactive member of the State Bar of New Mexico or an active or inactive member of the bar in another state, territory, or protectorate of the United States of America or the District of Columbia at the time of submitting an application under this rule;
- (2) is in good standing in each jurisdiction in which the attorney is licensed;
- (3) satisfies the legal services limited license requirements set forth in this rule; and
- (4) supplies a sworn statement that the applicant has not been the subject of disciplinary action by the bar or courts of any jurisdiction during the preceding five (5) years; provided, however, that complaints against the applicant shall not be considered disciplinary actions.

C. **Application procedure.** An applicant for a legal services limited license to represent legal services clients through a qualified legal services provider shall file with the clerk of the Supreme Court an application for a legal services limited license. The application shall be accompanied by the following:

(1) a certificate of admission to practice and good standing from each state in which the applicant is licensed to practice law or in the case of an inactive attorney a certificate showing that attorney's inactive status;

(2) a letter from the director of the qualified legal services provider that employs the applicant certifying the applicant's employment, whether for monetary compensation or otherwise;

(3) a certificate signed by the applicant stating that the applicant has read and is familiar with the New Mexico Rules of Professional Conduct, other New Mexico Supreme Court rules and New Mexico statutes relating to the conduct of attorneys, and the Creed of Professionalism of the State Bar of New Mexico;

(4) a docket fee in the amount of one hundred twenty-five dollars (\$125.00) payable to the New Mexico Supreme Court; and

(5) a state bar membership fee of one hundred dollars (\$100.00) payable to the State Bar of New Mexico, consisting of a state bar services fee of fifty dollars (\$50.00) and a disciplinary fee of fifty dollars (\$50.00) in lieu of the fee required by Rule 17-203 NMRA. All fees and costs associated with an application for a legal services limited license are not refundable.

**D. License; issuance and revocation.**

(1) If an applicant for a legal services limited license to represent legal services clients through a qualified legal services provider complies with the provisions of this rule, the clerk of the Supreme Court may issue a legal services limited license.

(2) A legal services limited license issued under this rule permits the applicant to practice law in New Mexico only as an attorney representing legal services clients through a qualified legal services provider.

(3) The clerk of the Supreme Court shall revoke the legal services limited license of any person found in violation of this rule or any other rules approved by the Supreme Court regulating the licensing and conduct of attorneys. Upon revocation of a legal services limited license, the applicant shall not represent any legal services client nor appear before any court of the State of New Mexico representing any legal services client.

**E. Expiration.** A legal services limited license shall expire upon the occurrence of any of the following events:

(1) termination of employment with a qualified legal services provider;

(2) admission to the New Mexico Bar upon passing the bar examination;

(3) denial of admission to the New Mexico Bar;

(4) failure to maintain membership in good standing in at least one state bar in which the applicant is a member;

(5) reinstatement under Rule 15-302 NMRA of an inactive member of the State Bar of New Mexico; or

(6) failure to pay the annual state bar membership fee or meet minimum legal education requirements under Paragraph F of this rule.

**F. Legal services limited licensee status.**

(1) An applicant granted a legal services limited license under this rule shall be a member of the state bar and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.

(2) Licensees under this rule shall pay a reduced annual state bar membership fee of one hundred dollars (\$100.00), consisting of a state bar services fee of fifty dollars (\$50.00) and a disciplinary fee of fifty dollars (\$50.00) in lieu of the fee required by Rule 17-203 NMRA.

(3) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.

## **15-302. Admission to practice.**

**A. Time for admission.** Applicants who have qualified for admission and applicants who are being admitted with conditions set by the Supreme Court shall be granted a license to practice law in all the courts of this state. Applicants will be admitted at the regular session of the Supreme Court next following fulfillment by the applicant of all requirements of these rules. Successful applicants

shall arrange with the court clerk to present themselves for admission within six (6) months after notification that they have satisfied all requirements for admission or follow the requirements for out-of-state swearing-in, as prescribed by the Board of Bar Examiners. Upon good cause presented in writing prior to expiration of such six (6) month period, the board may extend the period for admission. Applicants who fail to present themselves or apply for an extension within the period above fixed, or who fail to arrange for out-of-state swearing-in as prescribed by the Board of Bar Examiners, will be deemed to have abandoned their application for admission.

**B. Reinstatement.** A member of the bar who voluntarily withdraws from membership in the state bar, or goes on inactive status pursuant to the rules of the state bar, or who has been suspended for nonpayment of bar dues or fees, shall be required to file an application for reinstatement to active status with the Board of Bar Examiners for recommendation to the Supreme Court, and shall be required to pay to the Board of Bar Examiners a fee of three hundred fifty dollars (\$350.00), plus any reasonable additional expenses, attorneys fees and costs in connection with any investigations and hearings as the board deems necessary. Unless otherwise ordered by the Supreme Court, an applicant for reinstatement will not be required to take the bar examination.

**C. Reinstatement; additional condition.** The Supreme Court, as a condition of reinstatement, may impose a requirement that the applicant enroll in continuing legal education classes or a bar review course or any other requirement that the Supreme Court may deem necessary.

### **15-303. Limited privilege to practice law.**

**A. Privilege afforded law professors.** A law professor who is not a member of the state bar, or any lawyer or law professor who is an inactive member of the state bar, may practice as a lawyer in any state court or before any state administrative tribunal but only to the extent necessary to supervise clinical law students in a clinical law program which is approved by the law school dean.

**B. Requirements and limitations for law school professors.** In order to make an appearance as lawyer pursuant to this rule, the law professor must:

(1) be duly employed as a full-time permanent or visiting faculty member of the University of New Mexico School of Law, teaching in a classroom setting at the law school, and supervising students in a clinical law program;

(2) be admitted by examination to the bar of another state or the District of Columbia;

(3) neither ask for nor receive any compensation or remuneration of any kind for services rendered by the law professor under this rule, other than salary as a law professor; and

(4) certify in writing that the law professor has read and is familiar with the New Mexico Rules of Professional Conduct and the Rules of the Supreme Court of New Mexico and New Mexico statutes relating to the conduct of lawyers.

**C. Certification.**

(1) The law school dean shall certify the law professor or the supervisor in the clinical law program. This certification and the written certification as required by Subparagraph (4) of Paragraph B shall be filed with the clerk of this Court at the beginning of each academic year and shall remain in effect for that academic year.

(2) Any law professor certified pursuant to this rule shall not be a member of the state bar but shall be subject to all disciplinary procedures provided by law, Supreme Court rule governing the discipline of lawyers, or both, and shall be required to pay the annual disciplinary fee. Any person allowed to practice under this rule may be permanently barred from practicing law in New Mexico or receive any lesser sanction, if he is found in violation of the Rules of Professional Conduct.



**15-304. Oath.**

I, \_\_\_\_\_, do solemnly swear or affirm:

I will support the Constitution of the United States and the Constitution of the State of New Mexico;

I will maintain the respect due to courts of justice and judicial officers;

I will comply with the Rules of Professional Conduct adopted by the New Mexico Supreme Court;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval;

I will maintain civility at all times, abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;

I will never reject from any consideration personal to myself the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.

**ARTICLE 4****Bar Examiners****15-401. Board of Bar Examiners.**

A. **Composition.** The Board of Bar Examiners shall be composed of twelve members of the state bar of New Mexico. The members of the board shall be appointed by the New Mexico Supreme Court. The Board of Bar Examiners shall be charged with the following duties:

(1) investigating the professional qualifications and good moral character of applicants for admission or reinstatement to the bar of New Mexico;

(2) preparing, arranging for and administering examinations for admission to the bar of New Mexico;

(3) making recommendations to the Supreme Court with respect to reinstatement or readmission to practice of lawyers who have for any reason withdrawn from the state bar of New Mexico;

(4) discussing with applicants for admission to the bar general problems of purposes, policies and procedures of the bar examination; and

(5) administering these rules and adopting its own practices not inconsistent with these rules.

B. **Officers.** There shall be a chairman and a vice-chairman to be selected by the members. There shall be a secretary-treasurer of the board, who need not be a member of the board.

C. **Administrative assistance.** The Board of Bar Examiners shall be provided with adequate administrative and clerical assistance.

D. **Confidentiality.** All records maintained by the board regarding applications for admission and reinstatement to the state bar and all proceedings by the board, including board meetings and meeting minutes, shall be confidential except as provided by these rules or by order of the Supreme Court; provided, however, the board may release a copy of an application to the applicant upon receipt of a written request from the applicant or to a third person or entity upon receipt of a properly executed authorization by the applicant. The board is authorized to release information with respect to any applicant, which would otherwise be confidential, to the licensing or disciplinary agencies of any jurisdiction and to the National Conference of Bar Examiners.

### **15-402. Qualifications.**

A. **Attorneys and judges.** Bar examiners shall be attorneys or judges with an active bar membership and affirmative interest in legal education and requirements for admission to the bar.

B. **Devotion to duty and compensation.** A bar examiner shall devote whatever time is necessary to perform the duties required of this office. The sole compensation that a bar examiner receives shall be per diem and mileage for attending meetings or hearings of the board, or of any panel or committee thereof, at the same rate as provided in the Per Diem and Mileage Act for nonsalaried public officers attending meetings and any other compensation for service to the board as approved by the Supreme Court.

C. **Essential conduct.** A bar examiner shall be conscientious, studious, thorough, and diligent in learning the methods, problems, and progress of legal education, in preparing bar examinations, and in seeking to improve the examination, its administration, and requirements for admission to the bar. A bar examiner shall be just and impartial in recommending the admission of applicants.

D. **Adverse influence, conflicting duties and inconsistent obligations.** A bar examiner shall not have adverse interests, conflicting duties, or inconsistent obligations that will in any way interfere with the proper administration of the bar examiner's duties as a bar examiner. A bar examiner shall not participate directly or indirectly in courses for the preparation of applicants for bar admission, serve as a law school faculty member, or act as a trustee or regent of a law school or of a university of which a law school is a part, or with which a law school is affiliated. A bar examiner shall act in a manner that does not create any suspicion that the examiner may be swayed by improper considerations.

### **15-403. Tenure.**

Each bar examiner shall serve for a term of up to five (5) years and shall be eligible for reappointment. The members of the Board of Bar Examiners shall be appointed for staggered terms to insure continuity of policy, but there shall be sufficient rotation in the personnel of the board to bring new views to it and to insure continuing interest in its work. Upon a vacancy occurring on the Board of Bar Examiners, a new member shall be appointed as provided by these rules to serve for the remainder of the unexpired term of the member being replaced.

### **15-404. Rulemaking powers.**

The board shall have the authority to adopt rules of procedure, standards for grading, forms and other procedures necessary to the efficient and fair performance of its duties consistent with these rules.

### **15-405. Preparation of questions.**

The board shall adopt a policy as to the number, preparation and makeup of the questions. The Board of Bar Examiners may utilize the services of exam writers to prepare bar examination questions, either by arranging for the drafting services of qualified persons, including law school professors, or by using the services of the National Conference of Bar Examiners or other appropriate state or national agencies. The Board of Bar Examiners shall not use any questions prepared by any person who is affiliated with, teaches for or has any interest in a bar exam review course or who is in any way involved with assisting bar exam applicants with their exam preparation. The board, or a committee thereof, shall review and approve each question.

### **15-406. Regular and special meetings.**

The Board of Bar Examiners may hold other examinations for the Multi-State Professional Responsibility Examination, or other examinations or meetings in the state for the purpose of passing upon the qualifications of applicants or for the disposition of the business before it as it may deem necessary. The board will meet on the second Saturday in December and the second Saturday in May of each year for the purpose of interviewing applicants and considering applications under Rules 15-104 and 15-301, unless the board designates another date. It may hold examinations or meetings

at such places and times as in its judgment will be most convenient for all parties concerned; but whenever examinations are held as provided in this rule, all persons whose applications are on file awaiting examination must be notified of the time and place at least ten (10) days prior thereto.