

On September 4, 2019, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. §§ 3-310, 3-401.12, and 3-803, regarding attorney reinstatement:

CHAPTER 3: ATTORNEYS AND THE PRACTICE OF LAW

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Article 3: Discipline Procedures for Lawyers.

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§ 3-310. Procedure: Nebraska Supreme Court.

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(S) No application for reinstatement from an order of suspension shall be made prior to the expiration of the period of suspension unless otherwise provided by the Court in said order. If the disciplinary suspension is longer than 8 months, the member shall undergo a character and fitness evaluation as part of the application for reinstatement. See Neb. Ct. R. § 3-803(F).

(T) No application for reinstatement from an order of disbarment shall be made prior to the expiration of ~~five~~ 5 years after the final order in such proceedings shall have been entered. All applications for reinstatement from an order of disbarment shall include a character and fitness evaluation pursuant to Neb. Ct. R. § 3-803(F).

(U) A member seeking reinstatement must inform the Counsel for Discipline of all prior discipline taken against him or her in any jurisdiction. The disciplinary information shall be supplied as part of the application for reinstatement as provided for in section (V) below.

(V) Procedure for reinstatement.

(1) Applications for reinstatement shall be completed by the member seeking reinstatement and shall be on a form(s) supplied by the Attorney Services Division. The application shall be filed in the Supreme Court in the case number of the disciplinary proceeding by the Administrator of Attorney Services.

(2) Copies of every such application shall be ~~furnished the Relator,~~ served on the Counsel for Discipline, the current Chairperson of the Committee on Inquiry for the District which exercised original jurisdiction, and the Chairperson of the Disciplinary Review Board, any one or more of whom may appear and resist such application. Any other persons may likewise appear upon obtaining leave of the Court and make such resistance.

(3) Within ~~twenty~~ 20 days ~~thereafter~~ after filing the application for reinstatement, the Counsel for Discipline and the District Committee on Inquiry, by its Chairperson, shall each file a written statement recommending the application be granted or denied and the reasons therefor. The Court may deny such application without a hearing if justice and equity require it.

(4) If the application is allowed to proceed, and the member was suspended longer than 8 months, the Court shall direct the matter to the Nebraska State Bar Commission for a character and fitness evaluation as provided for in Neb. Ct. R. § 3-803(F). Upon completion of the character and fitness evaluation, the

Commission shall make a recommendation to the Supreme Court concerning the member's character and fitness to practice law.

(5) If the application or the showing in resistance thereto shall require the taking of evidence, the matter may be referred to a referee and the proceedings shall be the same as in the case of original disciplinary proceedings.

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Article 4: Mandatory Continuing Legal Education for Lawyers Rules.

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§ 3-401.12. Reinstatement for inactive, resigned, retired, or suspended attorneys.

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(C) Attorneys suspended from the practice of law due to the failure to file a report of MCLE or for failing to pay mandatory assessments, prior to reinstatement to the practice of law in Nebraska, shall submit to the Nebraska Supreme Court Attorney Services Division a written request for reinstatement upon the form provided. The Administrator for Attorney Services shall submit the application to the Supreme Court, together with a written statement ~~from the Director which evidences~~ evidencing the payment of any penalties as established by ~~the~~ these rules and the making up of any deficiency in the CLE requirements incurred prior to suspension or, if applicable, during the suspension. In no event shall the hours required for reinstatement exceed a total of 20 hours.

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Article 8: State Bar Association; Creation; Control; and Regulation.

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§ 3-803. Membership.

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(E) Delinquency and Reinstatement. All mandatory membership assessments not paid by April 1 of the current calendar year shall be considered delinquent; and the Administrator of Attorney Services Division shall send written notice, by certified mail, to each member then delinquent in the payment of his or her assessments, which notice shall be addressed to such member at his or her last reported address, and shall notify such member of such delinquency. All members who shall fail to pay delinquent assessments within 30 days thereafter shall be reported to the Supreme Court by the Administrator of Attorney Services Division, and the Supreme Court shall enter an order to show cause why such member shall not be suspended from membership in this Association. The Supreme Court shall, after hearing thereon, enter such an order as it may deem appropriate. If an order of suspension shall be entered, such party shall not practice law until restored to good standing. Whenever a member suspended for nonpayment of mandatory membership assessments submits an application with Attorney Services seeking reinstatement, the member shall make payment of all arrears, and shall satisfy the Supreme Court of his or her qualification to then return to the active practice of law utilizing the process set forth in § 3-803(F)(1), the attorney may request reinstatement. The Administrator of Attorney Services shall submit the completed application with the Court after gathering the necessary reinstatement information. The Administrator of

Attorney Services Division shall keep a complete record of all suspensions and reinstatements. No person, while his or her membership is suspended, shall be entitled to exercise or receive any of the privileges of membership in this Association.

(F) Suspension or Disbarment. Any member who shall be suspended or disbarred from the practice of law by the Supreme Court shall, during the period of such suspension or disbarment, be likewise suspended or barred from membership in this Association. Disciplinary reinstatement shall be allowed as provided in § 3-310.

(1) Upon application for admission after any disciplinary or administrative suspension lasting longer than 8 months, or for reinstatement after disbarment, the member shall submit to a character and fitness review before the State Bar Commission consisting of updating information the State Bar Commission uses to determine character and fitness to practice during the time of suspension or disbarment (Appendix A). The State Bar Commission shall collect a \$150 fee for its character and fitness investigation of each application for reinstatement.

(2) The State Bar Commission director shall make a character and fitness recommendation to the Court upon completion of the application process for each member applying for reinstatement from a gap in licensure of more than 8 months or reinstatement from a disbarment. In the event further inquiry as provided for in § 3-116(F) or a hearing before the State Bar Commission is required to determine a character and fitness recommendation, costs shall be taxed to the applying party.

(3) On reinstatement to practice by the Supreme Court, such party shall pay mandatory membership assessments for the year in which he or she is readmitted and all past due mandatory assessments and late fees owed at the time of the suspension or disbarment and complete any CLE requirements pursuant to Neb. Ct. R. § 3-401.12 prior to being restored to membership in this Association. Voluntary membership dues shall not be collected or assessed during suspension or disbarment periods or while an attorney is in retired/resigned status.

(G) Fees. Nothing herein contained shall be construed to limit the power of ~~this~~ the State Bar Association, or of any of its sections or committees, to assess voluntary registration fees or attendance fees for meetings, institutes, or continuing legal education sessions as may be approved or determined from time to time by the House of Delegates or the Executive Council.

(H) Resignation. Any member may resign either active or inactive membership in ~~this~~ the Bar Association by tendering his or her written resignation to the Administrator of the Attorney Services Division ~~Clerk of the Supreme Court of Nebraska~~ on a form to be provided. This form shall include an affidavit to be completed by the member seeking to resign, stating that the member has not been suspended or disbarred in any other state or by any court; that the member has not voluntarily surrendered his or her license to practice law in any other state or to any court in connection with any investigation or disciplinary proceeding against the member; that to the member's knowledge he or she is not then under investigation, nor has a complaint or charges pending against him or her with reference to any alleged violation of professional responsibilities as a lawyer; and that the member agrees to be subject to the jurisdiction of the Supreme Court for a period of 3 years from the date his or her resignation is accepted for the purpose of disciplinary proceedings for any alleged violation of his or her professional responsibilities as a lawyer. During this 3-year period, the acceptance of his or her resignation may be set aside by the Supreme Court upon application filed in the Supreme Court by the Counsel for Discipline. Once ~~If~~ the affidavit is completed, the Administrator for the Attorney Services Division shall submit the form to the Supreme Court which may accept the resignation, provided the resigning member's mandatory membership assessments are not delinquent, or may accept it upon payment of any such delinquent assessments, unless the member seeking to resign has been suspended for the nonpayment of assessments

as provided for in § 3-803(E), in which event the submitted resignation shall not be acted upon until the member seeking resignation has been reinstated as provided for in said section. In the event the affidavit is not fully completed, or any exception is taken to it, the tendered resignation shall be rejected. The Clerk shall keep a complete record of all submitted requests for resignation and all resignations and shall report to the Administrator of Attorney Services Division the names and addresses of members whose resignations have been accepted by the Supreme Court.

(I) Reinstatement Following Resignation. Whenever a former member of this Association who resigned is readmitted to the practice of law in Nebraska by the Supreme Court pursuant to the process set forth in § 3-119(E), the member shall not pay mandatory membership assessments for the year in which he or she is readmitted, as the reinstatement application fee includes the mandatory assessment for the year of reinstatement.

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