

The Nebraska State Bar Commission of the Nebraska Supreme Court submitted proposed amendments to the “Admission Requirements for the Practice of Law,” chapter 3, article 1, of the Nebraska Supreme Court Rules. The proposed amendments apply to the definition section and application for admission sections. The proposed amendments also clarify confidentiality provisions. On November 12, 2014, the Nebraska Supreme Court determined the proposed amendments shall be published for public comment.

The Nebraska Supreme Court invites interested persons to comment on the proposed amendments. Anyone desiring to comment on the proposed amendments should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via e-mail to jill.machacek@nebraska.gov, no later than December 15, 2014.

The full text of the proposed amendments is available below, or a hard copy may be obtained from the office of the Clerk of the Supreme Court and Court of Appeals upon request.

CHAPTER 3

ATTORNEYS AND THE PRACTICE OF LAW

ARTICLE 1

ADMISSION REQUIREMENTS FOR THE PRACTICE OF LAW

....

§ 3-101. Definitions.

....

(P) **Full-time practice/practice of law.** ~~The “full-time practice of law,” “practice of law,” or “to practice law” is as defined in § 3-119(C).~~ For purposes of these rules, “practice of law” means:

(1) The private practice of law as a sole practitioner or as an attorney employee of, or partner or shareholder in, a law firm, professional corporation, legal clinic, legal services office, or similar entity; or

(2) Employment as an attorney for a corporation, partnership, trust, individual, or other entity with the primary duties of:

(a) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law; or

(b) Preparing cases for presentation to or trying before courts, executive departments, or administrative bureaus or agencies;

(3) Employment as an attorney in the law offices of the executive, legislative, or judicial departments of the United States, including the independent agencies thereof, or of any state, political subdivision of a state, territory, special district, or municipality of the United States, with the primary duties of:

(a) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law; or

(b) Preparing cases for presentation to or trying cases before courts, executive departments, or administrative bureaus or agencies;

(4) Employment as a judge, magistrate, hearing examiner, administrative law judge, law clerk, or similar official of the United States, including the independent agencies thereof, or of any state, territory, or municipality of the United States, with the duties of hearing and deciding cases and controversies in judicial or administrative proceedings, provided such employment is available only to an attorney; or

(5) Employment as a teacher of law at a law school approved by the American Bar Association throughout the applicant's employment; or

(6) In the event that the applicant has not served for a full 5 of the last 7 years with any of the entities listed in subsections (1) through (5) above, for purposes of this section, the applicant may use any combination of subsections (1) through (5) above.

....

§ 3-114. Application for admission by examination applicants.

....

~~(1) Applicants with the qualifications to be classified as Class 1-A, 1-B, or 1-C applicants shall not be permitted to apply for the written examination taken by Class 2 applicants without the prior approval of the Commission, which approval may be given on good cause shown.~~

....

§ 3-119. Application for admission by attorney/Class 1-A, 1-B, and 1-C motion applicants.

(A) **Class 1-A applicants.** Class 1-A applicants are motion applicants who may be admitted to practice in Nebraska upon approval of a proper application and:

(1) ~~who, as determined by the Commission, has been admitted to and is currently active in practice who have been licensed and are active and in good standing~~ before the highest court of another state, the District of Columbia, or of any jurisdiction where the Common Law of England constitutes the basis of jurisprudence;

(2) who, at the time of their admission, had attained educational qualifications at least equal to those required at the time of application for admission by examination to the bar of Nebraska; ~~and~~

(3) who have passed ~~an~~ non-UBE examination equivalent to the examination administered in Nebraska with a score which is at least equivalent to the UBE passing score established by the Court and set forth in § 3-117(F); examination equivalent to the examination administered in the State of Nebraska and

(4) who have passed the MPRE with the minimum score ~~required by Nebraska~~ established by the Court and set forth in § 3-117(F).

(B) **Class 1-B applicants.** Class 1-B applicants who may be admitted to practice in Nebraska upon approval of a proper application are those:

(1) who have been licensed and are active and in good standing ~~in the practice of law before the highest court of~~ ~~in~~ another state, territory, or district of the United States preceding application for admission to the bar of Nebraska and have actively and substantially engaged in the practice of law in another state, territory, or district of the United States for 5 of the 7 years immediately preceding application for admission; and

(2) who, at the time of their admission, had attained educational qualifications at least equal to those required at the time of application for admission by examination to the bar of Nebraska.

~~(C)~~ For purposes of these rules, “practice of law” means:

~~(1) The private practice of law as a sole practitioner or as an attorney employee of, or partner or shareholder in, a law firm, professional corporation, legal clinic, legal services office, or similar entity; or~~

~~(2) Employment as an attorney for a corporation, partnership, trust, individual, or other entity with the primary duties of:~~

~~(a) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law; or~~

~~(b) Preparing cases for presentation to or trying before courts, executive departments, or administrative bureaus or agencies;~~

~~(3) Employment as an attorney in the law offices of the executive, legislative, or judicial departments of the United States, including the independent agencies thereof, or of any state, political subdivision of a state, territory, special district, or municipality of the United States, with the primary duties of:~~

~~(a) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law; or~~

~~(b) Preparing cases for presentation to or trying cases before courts, executive departments, or administrative bureaus or agencies;~~

~~(4) Employment as a judge, magistrate, hearing examiner, administrative law judge, law clerk, or similar official of the United States, including the independent agencies thereof, or of any state, territory, or municipality of the United States, with the duties of hearing and deciding cases and controversies in judicial or administrative proceedings, provided such employment is available only to an attorney; or~~

~~(5) Employment as a teacher of law at a law school approved by the American Bar Association throughout the applicant’s employment; or~~

~~(6) In the event that the applicant has not served for a full 5 of the last 7 years with any of the entities listed in subsections (1) through (5) above, for purposes of this section, the applicant may use any combination of subsections (1) through (5) above.~~

~~(D)~~ **(C) Class 1-C applicants.** Class 1-C applicants who may be admitted to practice in Nebraska upon approval of a proper application are those:

(1) who have taken the ~~Uniform Bar Examination (UBE)~~ in another jurisdiction and have earned at least the minimum score ~~as determined~~ established by the Court ~~and set forth in § 3-117(F)~~;

(2) have attained educational qualifications by the time of application that are at least equal to those required by the time of application for admission by examination to the bar of Nebraska; and

(3) who have passed the MPRE with the minimum score required in Nebraska established by the Court and set forth in § 3-117(F).

~~(E)~~ **(D) Other applicants.** Any applicant who does not qualify under § 3-119(A) through ~~(C)~~ ~~(D)~~ is a Class 2 examination applicant.

~~(F)~~ **(E)** Applicants who meet the requirements of Class 1-A, Class 1-B, or Class 1-C shall not be permitted to apply for examination without the prior approval of the Commission, which approval may be given on good cause shown.

~~(G)~~ **(F) Reciprocity.** ~~“Reciprocity”~~ Reciprocity is not an essential element of admission by motion in Nebraska. ~~Equivalent reciprocal rules of admission in a motion applicant’s home jurisdiction is not required.~~

....

§ 3-123. Review by Commission.

....

(B) The applicant must:

(1) appear at the hearing and make an oral presentation; and

(2) present a concise written brief 7 days prior to the hearing setting forth the reasons why the adverse decision or other challenged ruling of the Commission should be altered.

(C) The applicant may, at the applicant’s expense, arrange to have the proceeding recorded for use by the Commission or by the Court on appeal.

(D) Both the Commission and the applicant may present evidence in the form of witnesses and documents. The Commission may limit argument, request briefing on specific matters and subpoena documents or witnesses. Without waiving any rules of confidentiality stated in these Rules, the Commission may, in its discretion, provide to the applicant copies of any of its documentary evidence in advance of the hearing.

....

§ 3-127. Confidentiality.

(A) All documents and files concerning applications for permission to take the bar examination and for admission by motion to the practice of law shall be confidential.

B) All proceedings provided for herein shall be kept confidential until and unless the applicant waives his or her right to confidentiality either by written waiver or by conduct.

(C) Information provided to the Commission during the investigation of the character and fitness of an applicant shall be confidential and not be subject to disclosure until a review by the Commission pursuant to § 3-123. ~~available through discovery until an appeal of an adverse decision to the Court under § 3-126.~~

(D) Any person who seeks admission to practice law in the State of Nebraska shall agree to waive all rights of privacy with reference to any and all documentary material filed or secured in connection with the applicant's application. The applicant shall also agree that any such documentary material, including the application, may be offered into evidence, without objection by the applicant in any proceeding in regard to the applicant's admission to the practice of law.

....