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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of

PETITION TO AMEND RULES
34, 38, & 39 RULES OF THE
SUPREME COURT OF ARIZONA

Supreme Court No. R-24-_____

Petition to Amend Rules 34, 38, & 39
Rules of the Supreme Court of
Arizona

Under Rule 28, Ariz. R. Sup. Ct. the Attorney Regulation Advisory Committee (Committee) petitions the Court to amend rules related to the term “good standing” as that term is used with respect to the admission of applicants to the State Bar of Arizona. The Court approved a related but less comprehensive modification to portions of Rule 34 during the August Rules Agenda, effective January 1, 2024. *See R-23-0011*. This petition incorporates the language approved in R-23-0011 and conforms language across rules related to good standing.

The Committee further petitions the Court to clarify portions of Rule 34. Proposed modifications address the interpretation of the active practice of law and clarify portions of the application for admission process.

I. Purpose of the Proposed Rule Amendments.

A. To clarify the “good standing” requirement.

The Court has set out a number of requirements for those seeking admission to the State Bar of Arizona. The requirements apply to applicants seeking admission by Arizona uniform bar examination (UBE), transfer of UBE score, admission on motion (AOM), limited admissions, and temporary authorization. While the requirements for limited admissions and temporary authorization vary slightly from the other three forms of admissions, all require the applicant to be in good standing in any jurisdiction in which the applicant is currently admitted.

Applicants seeking admission by UBE, transfer of UBE score, or AOM, who have been previously admitted in another jurisdiction, must be “...presently in good standing, or the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction.” *Rule 34(b)(1)(E), Ariz. R. Sup. Ct.*

The impetus for this change comes from those applicants admitted in other jurisdictions applying either under AOM, Arizona UBE, or transfer of UBE score. Some of these applicants have been suspended for non-payment of mandatory dues or non-compliance with mandatory continuing legal education (CLE). Most of the suspensions arise from AOM applications.

The Court admitted a total of 575 AOM applicants over the past 3 years. There have been many applications in which the applicant had no discipline history but was currently on suspension for failure to pay dues or meet CLE requirements. The Committee on Character and Fitness has taken the position that “good standing” means good standing in all regards. When advised of this interpretation, some applicants chose to pay past dues or cure CLE requirements. Some chose simply to let the denial stand and abandoned their application.¹

The Committee recommends that revised language also be used for in-house counsel, foreign legal consultants, law professors, pro bono counsel, practice pending admission, and military spouse applications. Requirements would apply to law students and law graduates to the extent already contemplated in the rules.

¹ One applicant appealed the denial last year. She was precluded from repaying mandatory legal foundation dues by New Jersey court rules. Her only recourse was to retake the New Jersey bar exam and get readmitted. Her appeal was successful. *See, Moyer’s Petition for Review, In the Matter of the Application of Alison K.L. Moyer, No. SB-22-0064* (Ariz. Oct. 6, 2022). Rule petition No. R-23-0011, approved by the Court in August of 2023, is consistent with the Committee’s reading of the rules that good standing includes dues and CLE.

Making uniform the language of the rule would eliminate confusion and disparate treatment among applicants.²

B. To clarify the “active practice of law” requirement.

Under Rule 34(f) applicants seeking AOM must be primarily engaged in the active practice of law in one or more state(s) or territories or the District of Columbia. The meaning of the “active practice of law” in Rule 34(f)(2)(A) includes the “representation of one or more clients in the practice of law.” Under the existing rule, this phrasing creates confusion for applicants and raises administrative issues for the Committee on Character and Fitness, creating unnecessary work for staff when attempting to calculate the applicant’s years of practice.

The purpose of the proposed amendment to Rule 34(f)(2)(A) is to clarify that to be “primarily engaged in the active practice of law” requires the applicant to demonstrate their working hours have been committed to providing regular and ongoing legal services to clients.

C. To clarify the application for admission process in Rule 34

The Court has set out several requirements for those seeking admission to the State Bar of Arizona. The proposed changes to Rule 34 aim to simplify the

² The rule on pro hac vice admission requires verification of practice status. The Court may wish to revise that language if necessary.

application process by improving and clarifying the language used, updating processes, and resolving inconsistencies within the rule.

II. The Proposed Rule Changes.

A. Amending Rule 34 to clarify the “good standing” requirement.

The recommended universal change would be to use the words: [the applicant is in good standing] “concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education” along with the process for curing deficiencies. The words “or is capable of achieving good standing” should be deleted in all cases.

The capability of achieving something is aspirational at best. Simply being capable of repaying dues or completing continuing legal education does not benefit the profession or the public and does not comport with the requirement that applicants prove respect for law and legal institutions (Rule 36(b)(1), Ariz. R. Sup. Ct.); instead it evidences neglect or disregard of professional obligations. (Rule 36(b)(3)(H), Ariz. R. Sup. Ct.). *See, Findings of Fact and Recommendation for Denial in In re Application of Yourke.*

Exceptional cases, like *Moyer*, would be reviewed by the Committee on Character and Fitness, and a recommendation of admission or denial rendered. A denied applicant could appeal under Rule 36(H), Ariz. R. Sup. Ct.

B. Amending Rule 34(f)(2)(A) to clarify the meaning of active practice of law.

The proposed change to Rule 34(f)(2)(A) strikes “one or more” from the language, clarifying what applicants must document as “active practice.” This approach will reduce the number of applicants with minimized practices who rely on the existing “one client” language for admission. This will also reduce confusion among applicants, allow the Committee on Character and Fitness to efficiently substantiate the information provided by applicants, and eliminate unnecessary verification work for staff. The proposed change does not negatively impact those applicants who have a single client when working as corporate counsel, as that situation is addressed in Rule 34(f)(2)(F).

C. Amending Rule 34 to simplify its language and structure, making the application for admission process more comprehensible and accessible to readers.

Under existing Rule 34(d)(3), applicants are required to provide “an examination fee as established by the Court,” but there is no examination fee, as all fees are included in the application fee. The proposed modification removes the language pertaining to examination fees and renumbers the paragraph.

Rule 34(d)(5) establishes photograph specifications for applicants, instructing them to provide with their application a full-face photograph of the applicant's head, neck, and shoulders, without a hat, and not larger than two and one-half (2.5) inches by two and one half (2.5) inches nor smaller than two (2) inches by two (2) inches.

The proposed modification to Rule 34(d)(5) simplifies this language and provides flexibility for digital images.

Rule 34(d)(6) requires applicants to submit fingerprint cards with their application but does not address processing applications where the applicant's fingerprints cannot be read. The proposed modification to Rule 34(d)(6) adds language from the certification process in Arizona Code of Judicial Administration § 7-201(E)(1)(d)(2) that addresses unreadable fingerprints.

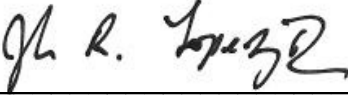
Rule 34(e)(3) describes a notification process for applicants who have properly filed their applications and are eligible to sit for the Arizona UBE. The proposed modification to this rule removes unnecessary language.

Rule 34(n)(2) discusses the summary suspension of a new admittee, stating the requirements for summary suspension are located in paragraph (j)(1), however, there is no paragraph (j)(1) within the rule. The proposed modification corrects this, replacing the (j)(1) reference with the correct paragraph reference, (n)(1).

III. Conclusion.

For the foregoing reasons, Petitioner respectfully requests the Court amend Rules 34, 38, & 39 Rules of the Supreme Court of Arizona, as proposed in the attached *Appendix*.

RESPECTFULLY SUBMITTED this 6th day of December, 2023.

By: 
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APPENDIX

Additions are shown by underline; deletions are shown by ~~striketrough~~.

Rule 34. Application for Admission

(a) [No changes]

(b) Applicant Requirements and Qualifications

1. [No changes]

A. through D. [No changes]

E. if ever admitted to practice in any jurisdiction, foreign or domestic, the applicant is presently in good standing concerning discipline, payment of mandatory dues and compliance with mandatory legal education, or the applicant resigned in good standing or is capable of achieving good standing; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

F. [No changes]

2. through 3. [No changes]

(c) [No changes]

(d) Documents Required in Support of Application.

1. [No changes]

2. if the applicant has been previously admitted to practice law in any jurisdiction, foreign or domestic, the certificate of the appropriate court agency(ies) or the mandatory bar association, whichever has custody of the roll of attorneys in such jurisdiction, indicating the date of admission and that the applicant is presently in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education, or that the applicant resigned in good

standing or is capable of achieving good standing status in that jurisdiction; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

~~3. for applicants taking the Arizona uniform bar examination, an examination fee as established by the Court;~~

~~4. an application fee as established by the Court;~~

~~5. a full-face image photograph of the applicant applicant's in a format as established by the court head, neck and shoulders, without a hat, and not larger than two and one half (2.5) inches by two and one half (2.5) inches nor smaller than two (2) inches by two (2) inches taken within six months prior to filing with the Committee on Character and Fitness; and~~

~~6. a complete set of the applicant's fingerprints. The Committee on Character and Fitness is authorized to receive criminal history information regarding any applicant for admission from any law enforcement agency in conjunction with the admissions process. If after two attempts, the FBI determines the fingerprints provided are not readable, the applicant must submit a written statement, under oath, the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.~~

(e) Arizona Uniform Bar Examination Application Filing Schedule; Fees

~~1. though 2. [No changes]~~

~~3. When an application to take the Arizona Uniform Bar Examination is properly filed with required supporting documents, after review, the applicant shall be promptly notified that the application is in order and that the applicant is certified to sit for the Arizona Uniform Bar Examination, ~~specifying the time and place of such examination.~~~~

(f) Admission on Motion.

~~1. [No changes]~~

~~A. through C. [No changes]~~

D. establish that the applicant is currently a member in good standing or resigned in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory legal education, in all jurisdictions where admitted; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any ~~other~~ jurisdiction;

2. [No changes]

A. representation of ~~one or more~~ clients in the practice of law;

B. through G [No changes]

3. through 5. [No changes]

(g) through [No changes]

(h) Admission by Transfer of Uniform Bar Examination Score

1. [No changes]

A. through C. [No changes]

D. establish that the applicant is currently a member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education in every jurisdiction, foreign or domestic, wherever admitted to practice law; ~~if the applicant is not presently in good standing, establish that the applicant resigned in good standing, or~~ the applicant resigned in good standing, although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any ~~other~~ jurisdiction;

F. through G. [No changes]

2. through 4. [No changes]

(i) through (m) [No changes]

(n) Completion of Professionalism Course.

1. [No changes]

A. through B. [No changes]

2. *Summary Suspension.* A new admittee who fails to comply with the requirements of paragraph ~~(j)(1)~~–~~(n)(1)~~ of this rule shall be summarily suspended from the practice of law in Arizona, upon motion of the state bar pursuant to Rule 62, provided that a notice by certified, return receipt mail of such non-compliance shall have been sent to the member, mailed to the member's last address of record in the state bar office at least thirty days prior to such suspension, but may be reinstated in accordance with these rules.

Rule 38. Certifications and Limited Admissions to Practice Law

(a) In-house Counsel

(1) [No changes]

(A) [No changes]

(B) The applicant is currently a member in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education, whether active, inactive, or retired, of the bar of another state or the District of Columbia, or eligible to practice before the highest court in any state, territory or insular possession of the force; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(C) [No changes]

(2) through (10) [No changes]

(b) Foreign Legal Consultant

(1) [No changes]

(A) have been admitted to practice and have been in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education as an attorney or counselor at law or the equivalent in a foreign country for not less than five years immediately preceding the date of the application; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(B) through (E) [No changes]

(2) through (9) [No changes]

(c) Law Professor Certification

(1) [No changes]

(A) through (B) [No changes]

(C) the applicant is a member in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education of the bar of all courts and jurisdictions in which the applicant is admitted to practice; , although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(D) through (E) [No changes]

(2) through (10) [No changes]

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

(1) [No changes]

(2) [No changes]

(A) [No changes]

(B) [No changes]

(i) [No changes]

(a) [No changes]

(b) Is a member in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education of the bar of all courts and jurisdiction in which he or she has been admitted to practice; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(c) through (d) [No changes]

(ii) [No changes]

(a) [No changes]

(b) Is a member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education of the bar of all courts and jurisdiction in which he or she has been admitted to practice; although, if the applicant is not in

good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(c) through (f) [No changes]

(iii) [No changes]

(a) Has been licensed to practice law for at least two years, holds an active license to practice law in another jurisdiction in the United States, and is a member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education of the bar of all courts or jurisdictions in which he or she is admitted to practice; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(iii)(b) through End [No changes]

Rule 39. Temporary Authorizations to Practice Law

(a) [No changes]

(b) Practice Pending Admission

(1) [No changes]

(A) is a licensed attorney in good standing concerning discipline, payment of mandatory dues, and compliance with mandatory continuing legal education in all courts and jurisdictions in which he or she has been admitted to practice; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

(B) through (J) [No changes]

(2) through (8) [No changes]

(c) [No changes]

(d) Military Spouse Certification

(1) [No changes]

(A) establish that the applicant is currently an active member in good standing concerning discipline, payment of mandatory dues and compliance with mandatory continuing legal education in at least one jurisdiction where admitted in the United States or territory and is a member in good standing in all jurisdictions where admitted; although, if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

(B) through (J) [No changes]

(2) through (8) [No changes]