

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO SECTIONS OF)
THE IDAHO BAR COMMISSION RULES)
(I.B.C.R.))
_____)

ORDER

The Board of Commissioners of the Idaho State Bar having presented proposed changes to the Idaho Bar Commission Rules (I.B.C.R.), and the Idaho Supreme Court having reviewed and approved the recommendations;

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Idaho Bar Commission Rules (I.B.C.R.), as they appear in the Idaho State Bar Desk Book and on the Idaho State Bar website be, and they are hereby, amended as follows:

1. That Rule 203 of SECTION II be, and the same is hereby, amended as follows:

SECTION II Admissions

RULE 203. Application for Admission. – proposed amendments

- (a) **Form and Content of Application.** Applications shall be on forms prescribed by the Board and shall include authorizations and releases to enable the Board to obtain information concerning the Applicant. All forms of authorization and release executed by the Applicant shall terminate:
 - (1) Upon the Bar's receipt of notice of withdrawal of the Application;
 - (2) Upon the Applicant's receipt of notice that the Bar has denied the Application; or
 - (3) Upon admission to the Bar.
- (b) **Time for Filing Application.**
 - (1) Except as provided in subsections (2) and (3) below, Applications must be received by the Bar no later than March 1 for the July bar examination and October 1 for the February bar examination.
 - (2) Late Applications will be accepted on or before April 15 for the July bar examination and on or before November 15 for the February bar examination. No Applications shall be accepted after the late Application deadline.
 - (3) A reciprocal or house counsel Application may be filed at any time.

(c) **Fees.** Applications for bar examination and admission must include all the required fees.

(1) **Application Fees.**

(A) Student Applicant: \$~~500~~ 600

(B) Attorney Applicant: \$~~690~~ 800

(C) Reciprocal Applicant: \$~~800~~ 1000

(D) House Counsel Applicant: \$~~690~~ 800

(2) **Additional Fees.**

(A) Late Application Fee. The late Application fee is \$~~100~~ 200.

(B) Investigation Fee. In the event the Board or CF Committee determines that an investigation of any Applicant beyond the usual investigation provided for in Rule 208 is required, the Board or CF Committee may require the payment of an additional investigation fee, including but not limited to, the cost of any record or document required by the Board or CF Committee related to its investigation of the Applicant. The Board and CF Committee shall not proceed with further investigation and the Applicant may not take the bar examination until the additional investigation fee is paid and the investigation of the Applicant's character and fitness is completed.

(C) Administrative Fees. The Board may assess additional administrative fees to be paid by Applicants for test-taking options.

(3) **No Refunds.** No refund, in whole or in part, shall be made of any fee.

(d) **Withdrawal.** An Application may be withdrawn at any time prior to the first day of the bar examination. Reciprocal Applicants and House Counsel Applicants may withdraw their Application at any time before admission. Once an Application is withdrawn, a new Application and required fees must be submitted.

2. That Rule 226 of SECTION II be, and the same is hereby, amended as follows:

RULE 226. Legal Intern License.

(a) **Admission to Limited Practice as Legal Intern.** Upon application and approval in accordance with this rule, qualified law students and recent law school graduates may be admitted as legal interns to engage in the limited practice of law described below.

(b) **Qualifications of Legal Intern.** To qualify for a legal intern license: the Applicant must:

(1) ~~Not have failed~~ the Idaho bar examination or the bar examination in any other jurisdiction; and

(2) ~~Be a student duly enrolled and in good academic standing at an Approved Law School, with completed legal studies totaling not less than two-thirds of a prescribed three-year course of study and the written approval of the Applicant's law school dean or the dean's designee; or~~ Have graduated from an Approved Law School within twelve months of applying for a legal intern license and show proof of graduation and the date thereof; or be a student duly enrolled and in good academic standing at an Approved Law School with completed legal studies totaling not less than two-thirds of a prescribed three-year course of study and the written approval of the applicant's law school dean or the dean's designee, provided that the written approval may be withdrawn at any time by written notice from the law school dean or designee to the Clerk of the Supreme Court and the Executive Director, and such approval shall be withdrawn if the applicant ceases to be duly enrolled prior to graduation or ceases to be in good academic standing.

(c) **Application.** The aApplicant shall submit an aApplication to the Executive Director on a form provided by the Bar that includes:

- (1) The aApplicant's certification, under oath, that he or she has read, is familiar with and shall abide by the Idaho Rules of Professional Conduct;
- (2) Identification of any state or territory of the United States or the District of Columbia in which the aApplicant has been granted a legal intern license prior to applying for licensure in Idaho and, if such legal intern license has ever been revoked, the date and reasons for the revocation; and
- (3) Proof of the date of graduation from an Approved Law School or written approval of the aApplication by the Applicant's applicant's law school dean or designee, ~~provided;~~
 - (A) ~~The dean's written approval may be withdrawn at any time by written notice from the law school dean or designee to the Clerk of the Supreme Court and the Executive Director; and~~
 - (B) ~~If the Applicant is currently a law student, such approval shall be withdrawn if the student ceases to be duly enrolled prior to graduation or ceases to be in good academic standing;~~
- (4) The name, address, telephone number and signature of the supervising attorney; and
- (5) A \$25 aApplication fee.

(d) **Procedure.**

(1) **Action by Executive Director.** The Executive Director shall approve or deny each aApplication for a legal intern license as follows:

(A) The Executive Director may deny an aApplication based upon the aApplicant's failure to meet the qualifications for licensure, failure to provide requested information, or for character and fitness issues. If the aApplication is denied, the Executive Director shall send notice of the denial and the basis of the denial to the aApplicant.

(B) The Executive Director shall forward all approved aApplications to the Supreme Court for further consideration. Approval by the Executive Director ~~shall~~ does not constitute a finding of good moral character and fitness for purposes of meeting the qualifications to take any bar examination or for admission to practice law.

(2) **Action by Supreme Court.** Upon receipt of an aApplication approved by the Executive Director, the Supreme Court may issue the legal intern license or deny the aApplication. Supreme Court approval ~~shall~~ does not constitute a finding of good moral character and fitness for purposes of meeting the qualifications to take any bar examination or for admission to practice law.

(e) **Term of Legal Intern License.** Each legal intern license shall be granted for a definite period of time not to exceed twelve consecutive months, provided:

- (1) If the aApplicant passes the Idaho bar examination and is admitted to the Bar prior to the expiration of the 12-month term, the legal intern license shall terminate upon admission to the Bar; or
- (2) If the aApplicant fails the Idaho bar examination or the bar examination in any other jurisdiction prior to the expiration of the 12-month term, the legal intern license shall terminate on the date the those bar examination results are released.

(f) **Scope of Legal Intern Practice.** A legal intern may:

- (1) Advise or negotiate on behalf of a person referred to the legal intern by the supervising attorney with the client's informed consent, confirmed in writing;

- (2) Prepare pleadings, motions, briefs or other documents;
- (3) Participate in any civil or criminal proceedings if the supervising attorney is present;
- (4) Participate in proceedings before a district court, without the presence of the supervising attorney, if
 - ~~the facts and the resulting order are based upon a stipulation between the parties to the proceedings are based on a stipulation between the parties; and~~
- (5) Participate in proceedings before a magistrate court, without the presence of the supervising attorney, if:
 - (A) The proceedings involve an infraction, misdemeanor, ~~felony arraignment~~ initial appearance, juvenile proceeding ~~involving an infraction or misdemeanor~~, or a civil proceeding; and
 - (B) The supervising attorney has ~~filed~~ submitted a certificate ~~with~~ to each judge before whom the legal intern appears certifying that the legal intern:
 - (i) Has participated in similar actions under the direct supervision and control of the supervising attorney;
 - (ii) Is fully prepared to present the matter; and
 - (iii) Has the informed consent of the client, confirmed in writing, to appear on behalf of that client.
- (g) **Responsibility.** The supervising attorney and legal intern are responsible to the courts, the Bar, the Supreme Court and the client for all services provided by the legal intern pursuant to this rule.
- (h) **Authority of the Court.** A judge may exclude a legal intern from active participation in a proceedings in the judge's sole discretion.
- (i) **Termination of Legal Intern License.**
 - (1) Failure by the legal intern to perform any of the following duties shall be grounds for the immediate termination of the legal intern license:
 - (A) Abide by the Idaho Rules of Professional Conduct and all other laws and rules governing lawyers admitted to the Bar;
 - (B) Advise the client of the license status of the legal intern prior to performing any services for the client;
 - (C) Advise the judge of the license status of the legal intern prior to appearing before the judge; ~~and~~ or
 - (D) Keep the supervising attorney, ~~Supreme Court~~ and Bar advised of the legal intern's current residence at all times.
 - (2) The Supreme Court may terminate a legal intern license at any time on the Supreme Court's own motion, on motion of the supervising attorney or Bar Counsel, or on motion of the legal intern and surrender of the legal intern license. ~~The Supreme Court may rule on any such motion ex parte.~~
- (j) **Compensation.** A legal intern shall not receive payment directly from a client for services rendered, provided however, that the employer or supervising attorney may compensate the legal intern for his or her services and may charge for services rendered by the legal intern as may otherwise be proper.
- (k) **Termination of Activity.** A legal intern shall not perform any services as a legal intern and shall not hold himself or herself out as a legal intern upon:
 - (1) Cessation of any of the conditions on which the legal intern license was issued;
 - (2) Termination of the legal intern license;

- (3) Resignation of the legal intern's supervising attorney;
 - (4) Suspension or termination by the Board of the supervising attorney's status as a supervising attorney; or
 - (5) Withdrawal of the dean's approval under subsection (c)(3)(A).
- (l) **Qualifications of Supervising Attorney.** An attorney is qualified to act as a supervising attorney who:
- (1) Is actively licensed in Idaho;
 - (2) Has practiced law for at least five years immediately prior to submission of the legal intern Application; and
 - (3) Has never has been publicly sanctioned in Idaho or any other state or territory of the United States or the District of Columbia, unless the Board approves the attorney to act as a supervising attorney.
- (m) **Duties of Supervising Attorney.** A supervising attorney shall:
- (1) Maintain direction and supervision over all work of the legal intern;
 - (2) Review and sign all pleadings, motions, briefs and other documents prepared by the legal intern, except when the judge has waived this requirement;
 - (3) Immediately notify the Supreme Court and Bar if the legal intern is no longer employed or engaged by the supervising attorney or if there has been a change of the legal intern's place of residence which impairs the ability of the supervising attorney to perform his or her duties;
 - (4) Be present in any proceedings required by this rule; and
 - ~~(5) File a certificate in proceedings where the supervising attorney's presence is not required;~~
and
 - ~~(56)~~ Advise the judge and client of the license status of the legal intern before any services are performed before the judge or on behalf of the client.
- (n) **Supervision of Interns.**
- (1) A supervising attorney shall not supervise more than two ~~one~~ legal interns except in a clinical course offered by an Approved Law School, approved by its dean and directed by a member of its faculty. Any supervising attorney of the clinical course or program may supervise all legal interns in that course or program.
 - (2) With the approval of the supervising attorney, any attorney in the supervising attorney's firm, law office or practice ~~that satisfies the qualifications in subsection (l)~~ may supervise and direct the work of the legal intern consistent with the duties set forth in subsection (m), provided that ~~an attorney operating under this subsection need only have practiced law for at least 3 years immediately prior to the date of the legal intern Application, and~~ the supervising attorney shall continue to be responsible for all work of the legal intern as provided in subsection (g) above.
- (o) **Substitution of Supervising Attorney.** A licensed legal intern may apply to substitute another attorney as his or her supervising attorney by application to the Executive Director and Supreme Court on a form prescribed by the Board. A substitution shall not be effective until approved by order of the Supreme Court.
- (p) **Termination of Supervising Attorney.**
- (1) An attorney may be terminated as the legal intern's supervising attorney at the discretion of the Board or Supreme Court.
 - (2) Upon termination of the supervising attorney, the legal intern shall cease performing any services and shall not hold himself or herself out as a legal intern until written notice of a

substitute supervising attorney, signed by the legal intern and by a new supervising attorney, is approved by the Executive Director and Supreme Court.

3. That SECTION IV be, and the same is hereby, repealed in its entirety and a new SECTION IV adopted to read as follows:

SECTION IV Mandatory Continuing Legal Education

RULE 400. Statement of Purpose. It is important to the public and members of the Bar that attorneys who are engaged in the active practice of law in Idaho continue their legal education. Continuing legal education enables attorneys to acquire new knowledge and skill sets and understand current trends and legal issues. These rules establish the minimum requirements for that continuing legal education.

RULE 401. Definitions. As used in these Rules, the following terms have the meanings set forth below:

- (a) **Accredited Activity.** A course, video, recording or other activity approved for CLE credit by the Board or its designee.
- (b) **Active or Active Member.** A member of the Bar as defined in I.B.C.R. 301.
- (c) **Attendance.** Being present in an audience, either in person or through an electronic medium, at a live Accredited Activity at the time the course is actually presented, or engaging in self-study using an accredited recorded program under Rule 404(a).
- (d) **Bar.** Idaho State Bar.
- (e) **Bar Counsel.** Legal counsel for the Board.
- (f) **Board.** Board of Commissioners, the duly elected governing body of the Bar.
- (g) **Canceled.** Status of an attorney as defined in I.B.C.R. 301.
- (h) **Certificate of Compliance.** Form certifying an attorney's compliance with applicable CLE requirements.
- (i) **CLE.** Continuing legal education.
- (j) **Court or Supreme Court.** Supreme Court of the State of Idaho.
- (k) **Credit Hour.** Sixty (60) minutes of actual attendance at an Accredited Activity, rounded to the nearest quarter of an hour.
- (l) **Executive Director.** The chief administrative officer of the Bar.
- (m) **House Counsel or House Counsel Member.** A member of the Bar as defined in I.B.C.R. 301.
- (n) **I.B.C.R.** Idaho Bar Commission Rules.
- (o) **New Admittee Credit-Approved (NAC-Approved).** An Accredited Activity addressing Idaho practice, procedure, and/or ethics that has been designated by the Bar as NAC-Approved in accordance with standards adopted by the Board.
- (p) **New Attorney Program.** The NAC-Approved Accredited Activity described in Rule 402(f).
- (q) **Resigned.** Status of an attorney as defined in I.B.C.R. 301.
- (r) **Rules.** Section IV of the I.B.C.R.
- (s) **State.** State of Idaho.

RULE 402. Education Requirement - Report. Except as provided in Rule 408, all Active and House Counsel Members shall complete and report CLE credits as provided in this section.

(a) Minimum Requirements.

- (1) Active and House Counsel Members shall complete a minimum of thirty (30) credit hours of Accredited Activity in every three (3) year reporting period.
- (2) Beginning with the attorney's next full reporting period after the effective date of these Rules and thereafter, at least three (3) CLE credits shall be in courses on legal ethics or professional responsibility, as approved by the Board or its designee. Such courses may include discussion of the Idaho Rules of Professional Conduct, professionalism and civility, client trust account administration and legal malpractice prevention.
- (3) No more than fifteen (15) of the required thirty (30) credits may be self-study credits.
- (4) Attorneys holding themselves out as specialists or certified specialists, as provided in Section X of the I.B.C.R., shall comply with the requirements of the applicable certifying organization for completion of CLE credits in the specialty area.
- (5) Fulfillment of the credit requirements specified in subsections (1) through (4) above may be concurrent.

(b) Reporting Period.

- (1) **General.** Except as provided in subsection (2), the reporting period for Active and House Counsel Members shall be every three (3) calendar years.
- (2) **Exceptions.**
 - (A) Upon an attorney's admission to the Bar as an Active or House Counsel Member, the reporting period shall begin on the date of admission and end on December 31 of the third full calendar year following admission.
 - (B) The reporting period for an attorney who transfers to active status under I.B.C.R. 306 shall begin on the effective date of the transfer and end on December 31 of the third full calendar year following transfer, provided:
 - (i) Any CLE credits obtained to satisfy transfer requirements shall not apply to the new reporting period; and
 - (ii) The reporting period for an attorney who transfers to Active status after less than one (1) year on another status shall be the same reporting period that was applicable prior to the attorney's transfer from Active status.
 - (C) The reporting period for an attorney whose license has been reinstated under I.B.C.R. 305 shall be the same reporting period that was applicable prior to the license cancelation, provided that any CLE credits obtained to satisfy requirements for reinstatement shall not apply to the reporting period.

(c) Certificate of Compliance. An attorney who is required to complete CLE credits under subsection (a) shall submit a written Certificate of Compliance, on a form prescribed by the Board, verifying the attorney's CLE compliance for the applicable reporting period.

- (1) **Content.** The Certificate of Compliance shall set forth the record of the attorney's compliance with these Rules during the reporting period and shall contain at least:
 - (A) A list of the Accredited Activities attended;
 - (B) The dates of attendance;
 - (C) The sponsoring organization;
 - (D) The hours attended, rounded to the nearest quarter of an hour; and
 - (E) The attorney's signature, under penalty of perjury.

- (2) **Place of Submission.** The Certificate of Compliance shall be submitted to the Executive Director.
- (3) **Time of Submission.** The Certificate of Compliance shall be submitted on or before February 1 of the year immediately following the conclusion of the reporting period.
- (d) **Verification of Compliance.** The Executive Director shall cause up to ten percent (10%) of the Certificates of Compliance submitted pursuant to subsection (c) to be randomly reviewed to verify compliance.
- (e) **Exemptions.** Exemptions from all or part of the CLE requirements of subsection (a) may be granted as follows:
 - (1) **Eligibility.** An exemption may be granted:
 - (A) Upon a finding by the Executive Director of special circumstances constituting an undue hardship for the attorney;
 - (B) Upon verification of the attorney's disability or severe or prolonged illness, in which case all or a specified portion of CLE credits may be earned through self-study; or
 - (C) To attorneys over the age of seventy-two (72) years.
 - (2) **Request for Exemption.** An attorney may request an exemption by submitting a written request to the Executive Director setting forth the grounds for the exemption.
 - (3) **Time for Submission.** A request for an exemption must be submitted to the Executive Director at least sixty (60) days prior to the end of the attorney's three (3) year reporting period.
- (f) **New Admittee Education Requirement.** Commencing on the date of admission to the Bar as an Active or House Counsel Member and within one (1) year thereafter, attorneys shall complete and report the following CLE credits:
 - (1) **NAC-Approved CLE Credits.** Attorneys shall complete at least ten (10) NAC-Approved CLE credits, which shall be counted towards satisfying the thirty (30) credit requirement set forth in subsection (a)(1).
 - (2) **Idaho Substantive Law Requirement.** Of the ten (10) NAC-Approved CLE credits required in subsection (f)(1), attorneys shall complete Accredited Activities addressing Idaho law on ethics, civil and criminal procedure, and community property. The Board shall approve and administer the Accredited Activities that satisfy the Idaho substantive law requirements of this Rule.
 - (3) **New Attorney Program.** An attorney who has actively practiced law for less than three (3) years prior to admission to the Bar shall also complete the New Attorney Program, which shall consist of an introduction to practice, procedure and ethics. The New Attorney Program CLE credits shall count towards satisfying the NAC-Approved CLE credit requirement in subsection (f)(1).
 - (4) **Extension.** An attorney may request an extension of time to complete these requirements by filing a written petition with the Executive Director within one (1) year of admission as an Active or House Counsel Member. The Executive Director may grant the extension upon a showing by the attorney that completion of these requirements would cause a substantial hardship.
 - (5) **Noncompliance.** An attorney's failure to complete these requirements shall be grounds for a finding of noncompliance under Rule 406.

RULE 403. Accreditation.

- (a) **Standards.** Accreditation of CLE activities shall be consistent with the following standards:

- (1) The activity shall have significant intellectual or practical content, and the primary objective shall be to increase the attorney's professional competence and ability to deliver quality legal services in an efficient, competent and ethical manner;
 - (2) The activity shall constitute an organized program of learning that addresses matters directly related to the practice of law, professional responsibility or ethical obligations of attorneys, provided:
 - (A) Courses included in the curriculum of a college or university undergraduate degree program do not qualify for accreditation as a CLE activity; and
 - (B) An attorney may receive credit for attendance at a non-legal educational program if the subject of that program relates specifically to the attorney's area of practice. For example, credit may be given for attendance at a medical-related program if the attorney's practice includes medical malpractice;
 - (3) The activity shall be conducted by an individual or group qualified by practical or academic experience in the covered subjects;
 - (4) The activity may include video, digital content or other presentation formats;
 - (5) Materials used in the activity shall be thorough and of high quality, and should be distributed to participants prior to or during the activity; and
 - (6) The activity may address law practice management to promote the efficient and competent delivery of legal services; however, no CLE credit shall be approved for marketing, client cultivation, general time management or stress reduction, computer training that is not specific to attorneys, general business topics, or vendor-sponsored activities designed solely to promote products or services.
- (b) **Accreditation.** A person or organization may apply for accreditation of a CLE activity by filing with the Executive Director a written application on a form prescribed by the Board.
- (1) **Contents of Application.** The application shall contain:
 - (A) The name of the sponsoring organization;
 - (B) A description of the CLE activity;
 - (C) Detailed descriptions of the subjects covered in the CLE activity;
 - (D) The name and qualifications of each presenter;
 - (E) The time schedule of a live CLE activity or the length, in minutes, of a recorded CLE activity;
 - (F) The name of the person or organization requesting accreditation;
 - (G) The date and location of a live CLE activity or, if the CLE activity is recorded, the date and location that the attorney completes the CLE activity for self-study credit; and
 - (H) For a recorded CLE activity used for self-study credit, the date the activity was produced or initially recorded.
 - (2) **Time of Filing.**
 - (A) The application may be filed prior to the CLE activity.
 - (B) An application filed more than thirty (30) days after the CLE activity is completed may be rejected as untimely.
 - (3) **Attendance Roster.** Upon completion of an Accredited Activity, the sponsor shall forward to the Bar an attendance roster specifying the number of credits earned by each attorney participant.
 - (4) **In-House and Self-Study Programs.** In-house or self-study programs that satisfy the requirements of subsection (a) may qualify for CLE credit upon written application.

RULE 404. Credit for CLE Activity. Attorneys may earn CLE credits for Accredited Activities that meet the standards of Rule 403(a), as follows:

(a) Credit for Attendance.

- (1) **General.** One (1) credit hour will be given for each hour the attorney actually attends an Accredited Activity.
- (2) **Exceptions.** No credit will be given for:
 - (A) Time spent in introductory remarks, coffee and food breaks, business meetings, or other activities that do not involve educational aspects of the CLE activity; or
 - (B) Any course attended in preparation for, or prior to, admission to the practice of law, provided that credit will be given for NAC-Approved CLE credits as provided under Rule 402(f).
- (3) **Self-Study Programs.**
 - (A) Credits for self-study programs are limited to no more than one-half of the total credits for each reporting period.
 - (B) Self-study programs include viewing or listening to legal educational programs that meet the standards set forth in Rule 403(a) and that were produced within the previous five (5) years.
 - (C) A CLE activity will be deemed a self-study program unless:
 - (i) Three (3) or more participants attend the CLE activity; and
 - (ii) The participants have access to the presenter during the CLE activity or, in the case of a video, audio or other recording, a moderator is present during the CLE activity who is qualified to answer attendees' questions about the CLE topic.

(b) Credit for Teaching.

- (1) Except as otherwise provided below, an attorney who teaches an Accredited Activity shall receive three (3) credit hours for each hour of teaching.
- (2) No credit will be given for:
 - (A) Preparation time;
 - (B) Time spent in introductory remarks, coffee and food breaks, business meetings, or other activities that do not involve educational aspects of the CLE activity;
 - (C) Presentations by attorneys that include the promotion of goods or services; or
 - (D) CLE activities for which the attorney is directly compensated other than as an honorarium or for expenses.
- (3) An attorney who teaches an activity that meets the accreditation standards under Rule 403(a) that is directed primarily to nonlawyers shall receive only one (1) credit hour for each hour of teaching.
- (4) For panel presentations, credit shall be calculated by multiplying the course hours by three (3) and dividing by the number of panel members.

(c) Credit for Published Legal Writing.

- (1) Published legal writing authored by attorneys may qualify for CLE credit as set forth below.
- (2) Credit may be given if the writing:
 - (A) Contributes to the attorney's legal education;
 - (B) Is intended for an attorney audience; and
 - (C) Is an original writing that is published, in print or electronically, in a professional legal journal or publication.

- (3) No credit will be given for:
 - (A) A writing that is prepared in the ordinary course of the attorney's employment or practice of law;
 - (B) Written materials prepared as part of a CLE course;
 - (C) A writing for which the attorney is directly compensated, other than as an honorarium;
 - (D) A writing prepared for or on behalf of a client or prospective client or for marketing purposes; or
 - (E) Editing or rewriting.
- (4) Credit for writing will be as follows:
 - (A) One (1) credit hour will be given for each one thousand (1,000) words, provided that any writing submitted for credit shall include a minimum of one thousand (1,000) words;
 - (B) Attorneys are limited to a maximum of six (6) total credits for writing for each reporting period;
 - (C) Credits will be applied in the year in which the writing is actually published; and
 - (D) A writing that is co-authored by one or more attorneys is eligible for credit in proportion to the percentage of work contributed by each attorney.
- (5) An attorney requesting credit for a published writing under this subsection shall include with the request a copy of the writing, a word count, and the name and address of the publisher. If the attorney is a co-author, the request shall also include a statement indicating the percentage of work contributed by the attorney.
- (d) **Carryover Credit.** No credit for attending or teaching a CLE activity shall apply to a reporting period other than the reporting period in which the credit is earned.

RULE 405. Processing Applications for Accreditation. Applications for accreditation under Rule 403(b) shall be submitted to the Executive Director.

- (a) **Application Fee.** All applications for accreditation of CLE activities shall be accompanied by a forty dollar (\$40) application fee, provided:
 - (1) Applications submitted by non-profit sponsors for live CLE activities that are two (2) hours or less in length and held in Idaho shall be accompanied by a twenty dollar (\$20) application fee; and
 - (2) No application fee is required for accreditation applications submitted by the Supreme Court, the Bar and its sections or district bar associations, the Idaho Law Foundation, Inc., or individual members of the Bar.
- (b) **Credit Approval or Denial.** The Executive Director shall:
 - (1) Examine and evaluate all applications for accreditation following the standards established by Rule 403(a);
 - (2) Approve or deny all or any portion of a CLE activity for which accreditation is sought; and
 - (3) Determine the number of credit hours allowed for each CLE activity.
- (c) **Decision.** The Executive Director shall provide written notice of the determination to approve or deny an accreditation application to the respective person or organization.
 - (1) **Contents of Notice.**
 - (A) If the application is denied, the notice shall state the reason for the denial and advise the applicant of the right to seek review of the decision.

- (B) If the application is approved, the notice shall state the number of credit hours allowed for the CLE activity.
- (2) **Timing of Notice.** The notice shall be provided within twenty-one (21) days following receipt of the application.
- (d) **Review.** Any person or organization whose application for accreditation of a CLE activity has been denied may seek review of the Executive Director's decision by filing a written request with the Board, stating the reasons for the review request.
- (1) **Time for Filing.** Any request for review of the Executive Director's decision shall be filed within fourteen (14) days of the notice.
- (2) **Additional Information.** The applicant may present additional information to the Board for its consideration.
- (3) **Decision of Board.** Following its review of the record, the Board shall issue a decision and advise the applicant of that decision. The decision of the Board is final.

RULE 406. Noncompliance.

- (a) **Grounds.** The following are grounds for a finding of noncompliance under these Rules:
- (1) Failure to complete the minimum CLE requirements under Rule 402(a);
- (2) Failure to submit a Certificate of Compliance under Rule 402(c);
- (3) Failure to complete the requirements of Rule 402(f); or
- (4) Failure to complete the CLE requirement under I.B.C.R. 306(a)(1)(E) or any additional CLE credits required by the Board following Transfer to Active status.
- (b) **Notice.** The Executive Director shall give, or cause to be given, written notice to each attorney who fails to comply with the CLE requirements of Rule 402 or I.B.C.R. 306. Such notice shall advise that:
- (1) If the attorney has failed to complete the requirements of Rule 402(f), the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho; or
- (2) If the attorney has failed to complete the CLE requirement under Rule 402(a) or (c):
- (A) The attorney must complete the CLE requirement by March 1 under I.B.C.R. 305; and
- (B) If the attorney fails to complete the CLE requirement by the March 1 deadline, the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho; or
- (3) If the attorney has failed to complete the CLE requirement under I.B.C.R. 306:
- (A) The attorney must complete the CLE requirement within thirty (30) days; and
- (B) If the attorney fails to complete the CLE requirement by the thirty (30) day deadline, the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho.
- (c) **Cure of Defect.** An attorney may cure noncompliance with CLE requirements under I.B.C.R. 306 or Rule 402(a) or (c) by:
- (1) Completing the minimum CLE requirements by the deadline contained in the Executive Director's notice under subsection (b);
- (2) Paying the MCLE late fee under I.B.C.R. 304(e)(2), if applicable; and
- (3) Submitting a Certificate of Compliance to the Executive Director certifying compliance with the CLE requirements.

- (d) **Cancelation for Noncompliance.** The license of an attorney who fails to comply with the CLE requirements may be canceled pursuant to I.B.C.R. 305.
- (e) **False Report.** If the Executive Director has reason to believe that an attorney has filed a false Certificate of Compliance under these Rules, the attorney's name shall be forwarded to Bar Counsel for review of the attorney's conduct under the Idaho Rules of Professional Conduct.

RULE 407. Confidentiality. The files, records and proceedings of the Board relating to an attorney's failure to comply with these Rules are confidential and shall not be disclosed except in furtherance of the Board's duties, upon request by the affected attorney, or as the files, record and proceedings may be introduced in evidence or otherwise produced in proceedings taken in accordance with these Rules.

RULE 408. Idaho Attorneys Licensed in Other States. Except as otherwise provided in subsection (c) below, an attorney licensed in Idaho and also in another jurisdiction that requires attorneys to comply with mandatory CLE requirements may comply with the CLE requirements under these Rules as follows:

- (a) **General.** An attorney whose principal office for the practice of law is not in Idaho may comply with the CLE reporting rules by filing a compliance report, on a form prescribed by the Board, certifying that:
 - (1) The attorney is subject to the mandatory CLE credit requirements in the jurisdiction where his or her principal office for the practice of law is located;
 - (2) The attorney complied with that jurisdiction's mandatory CLE requirements within the past three (3) years by submission and approval of the required credits; and
 - (3) The attorney is currently in compliance with the mandatory CLE credit requirements in that jurisdiction.
- (b) **Certificate of Compliance.** An attorney submitting a compliance report under subsection (a) must provide a mandatory CLE certificate of compliance, or similar verification, from the other jurisdiction that includes the following information:
 - (1) Confirmation that the attorney is in compliance with the mandatory CLE requirements;
 - (2) The attorney's current mandatory CLE reporting period;
 - (3) The date that the attorney's previous mandatory CLE reporting period ended; and
 - (4) Confirmation that the attorney complied with the mandatory CLE requirements by submission of approved credits during the previous reporting period.
- (c) **Exceptions.**
 - (1) Satisfaction of CLE requirements in Alaska or Hawaii does not satisfy Idaho mandatory CLE requirements.
 - (2) Attorneys licensed in other jurisdictions are not exempted from the requirement to complete the requirements of Rule 402(f).
 - (3) Attorneys claiming specialty certification shall comply with Rule 402(a)(3), provided that such attorneys may conform their reporting period to that of the jurisdiction in which their principal place of business is located.
 - (4) Attorneys who transferred to Active status under I.B.C.R. 306 shall comply with the CLE requirements applicable to the Transfer.

4. That SECTION IX be, and the same is hereby, repealed in its entirety and a new SECTION IX adopted to read as follows:

SECTION IX
General Rules

RULE 900. Election of Commissioners - Assuming Office. There shall be an annual election of successors to any commissioner of the Board of Commissioners (hereinafter "Board") whose term shall expire on the last day of the annual meeting of the Idaho State Bar. Within the Northern, Western, and Eastern Divisions where each commissioner represents two district bar associations, the district bar associations shall alternate in electing a commissioner within their division, i.e., although all members within a division are eligible to vote, the commissioner elected shall reside or maintain an office in the opposite district of the commissioner whose term is expiring. The following procedures shall be followed for such elections:

- (a) **Timing of Election.** The annual election shall be held on the first Tuesday in May of each year.
- (b) **Notice of Election.** On the first Tuesday in March, the Executive Director shall give notice of the election and of the time for closing nominations to all members of the Idaho State Bar residing in, or maintaining an office from which they primarily practice law in, the division in which the term of office of commissioner shall expire.
- (c) **Nomination.** A nomination for commissioner shall be in writing and shall require the concurrence of at least five (5) members of the Idaho State Bar in good standing and eligible to vote in that division. The nomination must be filed with the Executive Director by the close of the business day on the first Tuesday of April.
- (d) **Ballots.** The Executive Director shall prepare an official ballot containing the names of all persons who have been nominated and send the ballot fifteen (15) days before the date of the election to each member in good standing of the Idaho State Bar who is eligible to vote in the division from which the commissioner is to be elected.
- (e) **Election Procedure.** At the Board's discretion, the election may be conducted by paper ballots and/or a secure electronic voting system ("electronic voting"). In the case of an election using both paper ballots and electronic voting, the Executive Director shall mail paper ballots to members of the Idaho State Bar who are eligible to vote but who do not have a valid email address on file with the Idaho State Bar. Such mailing shall include information regarding how to vote by electronic voting. On that same date, the Executive Director shall send ballots electronically to all other members of the Idaho State Bar who are eligible to vote and shall provide information about how to obtain a paper ballot instead of voting by electronic voting.
 - (1) **Paper ballots.** Members voting by paper ballot shall mark the ballot and place it in a signed envelope. Paper ballots must be received by the Executive Director no later than 5:00 p.m. on the first Tuesday in May. Any ballots not enclosed in a signed envelope shall not be counted. All ballots shall be collected for canvassing by a board consisting of at least three (3) members in good standing of the Idaho State Bar, appointed by the President of the Board. The canvassing board shall remove the ballots from the envelopes, determine whether the person who signed the envelope is a member in good standing of the Idaho State Bar and eligible to vote in the district for which the election of

a successor has been conducted, examine and count the ballots, and certify the election results.

- (2) **Electronic voting.** Members voting electronically shall be provided a secure link to an online ballot. Electronic voting must be completed no later than 5:00 p.m. on the first Tuesday in May. Votes cast via electronic voting shall be verified and securely stored by the vendor.
- (f) **Election Results.** The candidate receiving the greatest number of votes shall be declared the elected commissioner. The Executive Director shall immediately announce the results of the election.
- (g) **Assuming Office.** The nominee declared elected shall assume office as commissioner of the Idaho State Bar on the last day of the annual meeting of the Idaho State Bar in the year of election.
- (h) **Vacancy.** If a vacancy occurs on the Board prior to the next scheduled election, the officers of the district bar association of the district(s) the commissioner represented shall nominate up to two (2) candidates to the Board. The Board shall appoint the commissioner from the nominations submitted by the district bar association officers. The appointed commissioner shall serve out the term in accordance with Rule 901.

RULE 901. Officers - Term of Office - Powers and Duties.

(a) Officers.

- (1) The officers of the Board shall consist of a President and President-elect, who shall be elected commissioners.
- (2) Each commissioner shall serve as President during his or her term of office.

(b) Term of Office.

- (1) At the first meeting of the Board after the election of any commissioner, officers shall be selected for the ensuing year.
- (2) The term of such officers shall be for six (6) months or one (1) year and until their successors are duly selected.

(c) Powers and Duties.

- (1) The President shall preside at meetings of the Board and at the annual meeting of the Idaho State Bar, and shall perform such other duties as may be prescribed by these rules.
- (2) The President-elect shall perform the duties of the President in case of the latter's absence or disability, and may appoint committees for the annual meeting as provided in Rule 903(e).

RULE 902. Employees – Compensation.

- (a) **Employees.** The Board may employ such additional assistants, including an Executive Director and Bar Counsel, as it deems advisable. Such employees shall perform the duties specifically set out in any of the rules of the Board, by statute, or as may be required by the Board.
- (b) **Compensation.** The compensation of the Executive Director and Bar Counsel shall be determined by the Board.

RULE 903. Committees.

- (a) **General Executive Committee.** The Board shall constitute the general executive committee of the Idaho State Bar.

- (b) **Examination Committee.** Examinations of applicants for admission shall be conducted and papers graded under the direction of the Board. The grading of the bar examination shall be conducted in accordance with the *Bar Examination Grading Standards and Procedures* as approved by the Idaho Supreme Court, provided, it is the power and duty of the Board to consider and determine what recommendation shall be made regarding the admission or rejection of applicants.
- (c) **Professional Conduct Committee.** The Board shall appoint, with the approval of the Idaho Supreme Court, a Professional Conduct Board as provided by Idaho Bar Commission Rule 502.
- (d) **Unauthorized Practice of Law Committee.** The Board shall appoint a Standing Committee on Unauthorized Practice of Law as provided by Idaho Bar Commission Rule 802.
- (e) **Annual Meeting Committee.** The President-elect of the Idaho State Bar shall have the power to appoint such committees on arrangements, programs and other matters connected with the annual meeting of the Idaho State Bar as he or she deems advisable.
- (f) **Character and Fitness Committee.** The Board shall appoint a Character and Fitness Committee as provided by Idaho Bar Commission Rule 209.
- (g) **Client Assistance Fund Committee.** The Board shall appoint a Client Assistance Fund Committee as provided by Idaho Bar Commission Rule 603.
- (h) **Other Committees.** The Board may appoint such other committees as it deems advisable and define the duties of such committees.

RULE 904. Board Meetings.

- (a) **Regular Meetings.** The Board shall hold meetings, the time and place of such meetings to be fixed by the Board or President, and provide appropriate notice to each commissioner, the members of the Idaho State Bar, and the public.
- (b) **Special Meetings.** The Board may call such special meetings as it deems necessary and provide appropriate notice to each commissioner, the members of the Idaho State Bar, and the public.

RULE 905. Meetings of the Idaho State Bar.

- (a) **Annual Meeting.** There shall be an annual meeting of the Idaho State Bar at such time and place as determined by the Board. At the annual meeting, the members present shall constitute a quorum, each member shall have one (1) vote, and questions shall be determined by a majority of the votes cast at the annual meeting.
 - (1) **Notice.** Notice of the time and place of the annual meeting shall be given by the Executive Director to each member of the Idaho State Bar at least fifteen (15) days prior thereto.
- (b) **October Meeting.** In October of each year, at a time and place selected by the Board, there shall be a meeting of the Board and the delegates of each district bar association organized and existing as provided in Rule 907, for the purpose of presenting resolutions concerning the matters designated in Rule 906(a). The meeting shall be open to any member of the Idaho State Bar.
- (c) **December Meeting.** In December of each year, at a time and place determined by the Board, there shall be a meeting of the Board and the delegates of each district bar association organized and existing as provided in Rule 907 for the purpose of adopting or rejecting

resolutions on matters described by Rule 906(a). The meeting shall be open to all members of the Idaho State Bar.

RULE 906. Resolution Process.

- (a) **Purpose and Matters to be Considered.** All matters relating to or affecting the statutes or laws of the State of Idaho, rules of court, the policies of the Idaho State Bar or the governance of the Idaho State Bar or of the district bar associations shall be determined by the members of the Idaho State Bar by direct secret ballot or through a vote of the district bar associations as provided in this rule, provided that matters relating to technical corrections, clarification or implementation of the Idaho Bar Commission Rules may be adopted by the Board and proposed to the Idaho Supreme Court.
- (b) **Submission of Resolutions.** Resolutions may be submitted by the Board, district bar associations, sections or committees of the bar, or by any member of the Idaho State Bar. Resolutions shall be submitted in writing, with copies of any proposed legislation or rule changes attached, to the office of the Executive Director of the Idaho State Bar on or before September 25. Each resolution submitted shall be reviewed by the delegates to the October meeting so they may become familiar with the purpose of the resolution and report to the members of their district bar association.
- (c) **Voting - Eligibility.** Each active, house counsel and judicial member of the Idaho State Bar shall be entitled to one (1) vote on each question presented.
- (d) **Voting - Method.** Following the October meeting, the Executive Director shall send a ballot to all eligible voters, listing all resolutions in "aye or nay" form, and including instructions for the return of ballots. Voters may return the ballots to the offices of the Idaho State Bar or cast them at their respective district bar association meeting. Questions shall be determined by the combined ayes and nays cast statewide.
- (e) **October Meeting.** The October meeting shall be scheduled in accordance with Rule 905(b).
 - (1) **Delegates.** Each district bar association shall elect or appoint one (1) member from the district bar association to serve as delegate to the meeting. Each Commissioner of the Board shall also serve as a delegate.
 - (2) **Vote.** The vote of each district bar association on any question shall be cast at the October meeting as instructed by the district bar association. Each question shall be determined by a majority vote of all delegates present at the meeting.
 - (3) **Determination whether to Circulate.** All resolutions submitted by the district bar associations, Idaho Supreme Court and Board shall be automatically considered submitted for resolution process consideration, unless two-thirds of the delegates present at the October meeting conclude that a proposed resolution is clearly outside the scope of the Idaho State Bar's authority.
- (f) **Circulation of Resolutions to Membership.** All resolutions submitted by the district bar associations, Idaho Supreme Court and the Board, and all other resolutions approved by a majority vote cast by the delegates as provided in this rule, shall be circulated directly to the members of the Idaho State Bar as soon as practical by the Board.
- (g) **Consideration by District Bar Associations.** Each resolution following its dissemination shall be considered by the members of each district bar association at a meeting held prior to December 1 of each year.
- (h) **Amendments to Circulated Resolutions.** Proposed amendments to circulated resolutions may be offered at any district bar association resolution meeting. Once an amendment is

proposed at a district bar association resolution meeting, an advisory vote shall be taken at the meeting where the amendment was offered and shall be taken at any subsequent district bar association resolution meeting if the amendment is approved by the advisory vote at the resolution meeting where the amendment was offered. Proposed amendments shall be germane to the original resolution and shall not be contrary to or defeat the intent of the original resolution.

- (i) **Circulation of Proposed Amendments.** Proposed amendments approved by an advisory vote of the members of at least one district bar association meeting shall be disseminated to the officers of the district bar associations prior to the December meeting.
- (j) **December Meeting.** The December meeting shall be scheduled in accordance with Rule 905(c).
 - (1) **Delegates.** Each district bar association shall elect or appoint one (1) member of the district bar association as the delegate to the meeting who shall cast the vote of the district bar association on each resolution circulated and voted on by the members of that district bar association.
 - (2) **Vote.** The vote of each district bar association shall be cast according to the ayes and nays cast by the voting members of that district bar association.
 - (A) **Amendments to Circulated Resolutions.** Notwithstanding any other provisions of this Rule, each delegate shall have discretionary authority to also vote on any proposed amendments offered at one of the district bar association resolution meetings and approved by an advisory vote to said resolutions.
- (k) **Referendum.** A resolution may provide whether a referendum of the membership shall be taken on any question and the form and substance of the question to be presented, which question shall be framed so as to be capable of a "yes" or "no" answer.
 - (1) **Ballots - Canvassing.** The Executive Director shall prepare ballots within ten (10) days following the December meeting of the district bar association delegates and send one (1) ballot to each member of the Idaho State Bar. Ballots shall be returned to the Executive Director within fifteen (15) days after the date the ballot was sent to each member. Envelopes containing voted ballots shall be signed by the voting member. The Board shall constitute the canvassing committee for the referendum ballots. Canvassing shall be performed at the Board meeting following the closing of balloting and the Board shall declare the majority vote to be the opinion of the Idaho State Bar on said question and publish the same.
- (l) **Emergency.** If the Board determines that an emergency exists and that the decision of the Idaho State Bar members is needed on any question, the Board may call a meeting of or otherwise canvass the delegates of the district bar associations last appointed to attend the December meeting of the district bar association delegates or any alternate designated by the district bar association president, and upon a majority vote as provided in Rule 906(c), may either adopt a resolution or submit a question for vote to the members of the Idaho State Bar as provided in Rule 906(c).

RULE 907. District Bar Associations.

- (a) As previously established by the Board, the State is divided into seven (7) district bar associations corresponding to the Idaho Judicial Districts as defined by Idaho Code Section 1-801 et seq.

- (1) All active, inactive, emeritus, house counsel and judicial members of the Idaho State Bar, residing within or maintaining an office from which they primarily practice law within the state of Idaho within the territorial limits of each district association so organized, shall be members of such association. All active, house counsel and judicial members are entitled to vote at any meeting of their respective district bar association.
- (b) Each district bar association shall adopt Uniform By-Law Provisions promulgated by the Idaho State Bar and file a copy of such duly adopted provisions with the Executive Director. Amendments to the Uniform By-Law Provisions may be adopted by the Board only with the concurrence of a majority of all officers of the district bar associations. Each district bar association may adopt additional rules, not inconsistent with the rules governing the Idaho State Bar, and file such additional rules with the Executive Director as herein provided.
- (c) A district bar association may, by vote as provided by its by-laws, delegate to committees the power to act upon any matter of concern to that district bar association.

RULE 908. Records. The Executive Director shall have general charge of the records, files and property of the Board, keep minutes of the proceedings of the Board, and keep a complete, permanent file of all applications for admission to the Idaho State Bar and of all members of the Idaho State Bar.

RULE 909. Claims. The Board shall conduct the fiscal affairs of the Idaho State Bar in accordance with generally accepted accounting principles and shall have an annual audit of the financial reports as provided in *Idaho Code* Section 3-409. The Executive Director shall administer the day-to-day financial affairs of the Idaho State Bar subject to the general supervision of the Board and shall report on the financial status of the Idaho State Bar to the Board at each regular meeting of the Board.

IT IS FURTHER ORDERED that the amendments shall be effective the 2nd day of May, 2014.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Rules.

DATED this 17th day of March, 2014.

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.
 WITNESS my hand and the Seal of this Court 3-18-14

By Order of the Supreme Court

R. S. Burdick
 Roger S. Burdick, Chief Justice

ATTEST: Stephen Kenyon Clerk
 Clerk
 By: Kimberly Grove Deputy
 Deputy