

# IOWA COURT RULES

FIFTH EDITION

May 2015 Supplement



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ADMINISTRATIVE CODE EDITOR

## PREFACE

The Fifth Edition of the Iowa Court Rules was published in July 2009 pursuant to Iowa Code section 2B.5(2). Subsequent updates to the Iowa Court Rules, as ordered by the Supreme Court, are published in electronic format only and include chapters that have been amended or adopted.

The Iowa Court Rules and related court documents are available on the Internet at <https://www.legis.iowa.gov/IowaLaw/courtRulesListing.aspx>.

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**Inquiries:** Inquiries regarding access to the Iowa Court Rules should be directed to the Legislative Services Agency's Computer Services Division Help Desk at (515)281-6506.

**Citation:** The rules shall be cited as follows:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 32	Iowa R. of Prof'l Conduct
Chapter 51	Iowa Code of Judicial Conduct

All other rules shall be cited as "Iowa Ct. R."

**Supplements:** Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

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**Changes in this supplement**

Chapter 47 .....	Replaced	Rule 31.16.....	Amended
Chapter 48 .....	Amended	Rule 35.14.....	Amended

**INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES**

Replace Chapters 47 and 48

Replace Chapter 31

Replace Chapter 35



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## CHAPTER 31 ADMISSION TO THE BAR

### Rule 31.1 Board of law examiners.

#### 31.1(1) *Composition.*

a. The board of law examiners shall consist of five persons admitted to practice law in this state and two persons not admitted to practice law in this state. Members shall be appointed by the supreme court. A member admitted to practice law shall be actively engaged in the practice of law in this state.

b. Appointment shall be for three-year terms and shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment of the supreme court. Members shall serve no more than three terms or nine years, whichever is less.

c. The members thus appointed shall sign a written oath to faithfully and impartially discharge the duties of the office and shall file the oath in the office of professional regulation. They shall be compensated for their services in accordance with the provisions of Iowa Code section 602.10106.

d. The supreme court may appoint temporary examiners to assist the board, who shall receive their actual and necessary expenses to be paid from funds appropriated to the board.

e. The members of the board of law examiners and the temporary examiners shall be paid a per diem in an amount the supreme court sets for each day spent in conducting or grading the examinations of the applicants for admission to the bar and in performing administrative and character and fitness investigation duties. They shall also be reimbursed for additional expenses necessarily incurred in the performance of such duties.

f. The assistant director for admissions of the office of professional regulation shall serve as the principal administrator for the board of law examiners. Wherever in this chapter a reference to the "assistant director" appears, it shall refer to the assistant director for admissions of the office of professional regulation.

g. The board shall have an administrative committee consisting of the chair, the director of the office of professional regulation and a nonattorney member of the board appointed by the court. The administrative committee shall, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court shall authorize payment as provided in the budget. A separate bank account designated as the admissions operating account shall be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement shall be deposited in the admissions operating account for payment of the board's authorized expenditures.

h. Claims against members of the board and the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

i. The board of law examiners and its members, employees, and agents; temporary law examiners; and the director, assistant directors, and the staff of the office of professional regulation are immune from all civil liability for damages for conduct, communications, and omissions occurring in the performance of and within the scope of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.

j. Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm, or institution, without malice, to the board of law examiners, its members, employees, or agents, or to the director, assistant director, and the staff of the office of professional regulation are privileged, and civil suits for damages predicated thereon may not be instituted.

#### 31.1(2) *Duties.*

a. The board may adopt rules to govern the method of conducting the bar examination. Such rules shall be consistent with these rules and are subject to supreme court approval.

b. The authority to pass on the sufficiency of applications for permission to take the bar examination is vested in the board of law examiners, subject to supreme court review.

c. The members of the board authorized to grade examinations shall make the final decision on passage or failure of each applicant, subject to the rules of the supreme court. The board shall also recommend to the supreme court for admission to practice law in this state all applicants who pass the bar examination and the Multistate Professional Responsibility Examination, and who meet the requisite character and fitness requirements. The board, in its discretion, may permit an applicant

to take the bar examination prior to finally approving that person as to character and fitness. It may impose specific conditions for admission based on its evaluation of character and fitness and shall withhold recommendation of admission until those conditions are satisfied. An applicant who passes the bar examination shall satisfy such character and fitness conditions and any other conditions imposed by the board within one year of the date of the applicant's passage of the examination. This period may be extended by the board upon the applicant's showing of good cause. If any conditions imposed are not satisfied within the applicable period of time, the applicant's passage of the examination is null and void and the applicant must retake the bar examination in order to gain admission. The supreme court shall make the final determination as to those persons who shall be admitted to practice in this state.

*d.* An applicant who has passed the examination and is eligible for admission must be administered the lawyer's oath by a supreme court justice within one year of the date the bar examination score was posted or the date of fulfilling all eligibility requirements, whichever is later. An applicant who fails to be administered the oath within this deadline will no longer be eligible for admission and the applicant's passage of the examination will be null and void. This deadline may only be extended by the board upon a showing of exceptional circumstances.

[Court Order July 2, 1975; September 20, 1976; April 17, 1990, effective June 1, 1990; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012]

### **Rule 31.2 Registration by law students.**

**31.2(1)** Every person intending to apply for admission to the bar of this state by examination shall, by January 15 of the year after the person commences the study of law in an accredited law school, register with the Iowa board of law examiners on forms furnished by the board and pay the required fee of \$40. The board may designate data submitted as a confidential record. Any confidential data shall be segregated by the board and the assistant director from the portion of the registration filed as a public record.

**31.2(2)** If any person shall fail to so register, the board may, if it finds that a strict enforcement of this rule would work a hardship and that sufficient excuse exists for failing to comply with rule 31.2(1), waive the requirements of this rule as to the date of filing. Refusal of the board to waive such requirement shall be subject to supreme court review. If the registration is not on file by the January 15 registration deadline set forth in rule 31.2(1), but is on file by December 1 immediately preceding the registrant's July examination or July 1 immediately preceding the registrant's February examination, the registration fee will be \$150. If the registration is not timely filed, but is on file by April 1 immediately preceding the registrant's July examination or November 1 immediately preceding the registrant's February examination, the registration fee will be \$250. This fee is not refundable and shall be in addition to the fee required under rule 31.6. The failure to file the registration by the January 15 deadline of rule 31.2(1) may result in delays in conducting the board's character and fitness investigation. The board will not expedite its character and fitness investigation because the registration form is not timely filed. The board may conclude the registrant should not be permitted to take the bar examination until the investigation is completed. The registrant will not be eligible for admission to the bar until the character and fitness process is completed.

**31.2(3)** Registration as a law student under this rule is not deemed an application for permission to take the bar examination.

**31.2(4)** The registration shall be accompanied by letters prepared by three persons not related to applicant by consanguinity or affinity attesting to the registrant's good moral character. The letters must be signed and shall include contact information for the reference provider. The letters shall state how the reference knows the registrant, how long the reference has known the registrant, and the basis for concluding the registrant possesses good moral character.

**31.2(5)** The board shall review each registration and may require the personal presence of any registrant at such time and place as the board may prescribe for interview and examination concerning the registrant's character and fitness. The board may at any time find it advisable to make further inquiry into the character, fitness, and general qualifications of the registrant, and with regard to each registration, the board shall have all of the powers given it in respect to inquiry and investigation of candidates for admission to the bar.

[Court Order July 2, 1975; September 20, 1976; December 16, 1983—received for publication May 30, 1984; February 16, 1990, effective March 15, 1990; April 16, 1992, effective July 1, 1992; March 26, 1993,

effective July 1, 1993; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 112); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; April 9, 2009; December 10, 2012; August 21, 2013; April 25, 2014]

**Rule 31.3 Required examinations.**

**31.3(1) Iowa bar examination.** Beginning with the February 2009 administration of the Iowa bar examination, the provisions of this rule shall apply to the dates and content of the bar examination.

*a.* Written examinations for admission to the bar shall be held in Polk County, Iowa, commencing with a mandatory orientation session on the Monday preceding the last Wednesday in February and on the Monday preceding the last Wednesday in July.

*b.* The examination shall consist of three components: the Multistate Essay Examination (MEE), the Multistate Bar Examination (MBE), and the Multistate Performance Test (MPT). There shall be one three-hour MEE session consisting of six questions, one MPT session consisting of two 90-minute performance tests, and two MBE sessions consisting of 100 multiple-choice questions each. The MEE portion of the examination shall consist of questions from the following subjects:

- (1) Business associations
  1. Agency and partnership
  2. Corporations and LLCs
- (2) Conflict of laws
- (3) Constitutional law (Federal)
- (4) Contracts (including Uniform Commercial Code (Sales) (Art. 2))
- (5) Criminal law and procedure
- (6) Evidence (based on the Federal rules of evidence)
- (7) Family law
- (8) Federal civil procedure
- (9) Real property
- (10) Torts
- (11) Trusts and Estates
  1. Decedents' estates
  2. Trusts and future interests
- (12) Uniform Commercial Code—secured transactions (Art. 9)

*c.* Some MEE questions may include issues from more than one area of law. Conflict of laws issues are embedded in the other MEE topic areas. They do not appear as stand-alone questions. Uniform Commercial Code issues may require the applicants to know the general principles and applicable definitions set forth in Art. 1. Complete subject matter outlines for the MEE are available on the website of National Conference of Bar Examiners.

*d.* Applicants must achieve a combined scaled score of 266 or above in order to pass the examination. All passes and all failures shall be on a vote of at least four members of the board of law examiners admitted to practice law in Iowa.

**31.3(2) Multistate Professional Responsibility Examination.** Every applicant for admission to practice law in the state of Iowa must have on file with the assistant director examination results from the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners no later than April 1 preceding the July examination or November 1 preceding the February examination. Each applicant must obtain a scaled score of at least 80 in order to be admitted to practice law in Iowa. MPRE scores shall only be accepted for three years after the date the MPRE is taken.

It is the responsibility of the applicant to ensure that a score report from the National Conference of Bar Examiners is sent to the assistant director by the date indicated above. An applicant who cannot meet the deadline for posting a passing MPRE score must file a petition asking for permission to post a passing score after the deadline. The petition must state why the score could not be timely posted and indicate when the applicant will take the MPRE. A petition to post the score prior to the examination may be addressed by the board, but a petition to post a score after the examination must be addressed by the supreme court.

[Court Order July 2, 1975; September 17, 1984; October 23, 1985, effective November 1, 1985; January 3, 1996; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 101); July 26, 1996; September 12, 1996; October 3, 1997; July 11, 2000; November 9, 2001, effective February 15, 2002; August 28, 2006; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012; December 16, 2014]

**Rule 31.4 Transfer and banking of MBE scaled scores.**

**31.4(1)** Applicants may transfer any MBE scaled score they received in another jurisdiction from one of the last four administrations of the MBE immediately preceding the deadline for filing the application for the Iowa bar examination. Applicants must indicate their intent to transfer an MBE score on their bar application. The applicant's MBE score from a prior examination must be certified from the other jurisdiction or the National Conference of Bar Examiners by November 1 preceding the February examination and by April 1 preceding the July examination. Applicants may not transfer MBE scaled scores from a concurrent administration of the test.

**31.4(2)** Applicants may rely upon an MBE scaled score obtained on one of the last four Iowa bar examination administrations immediately preceding the deadline for filing the application for a subsequent bar examination. Applicants choosing to rely upon their prior MBE scaled score shall indicate their intention on the bar application form.

**31.4(3)** Applicants who choose to rely on a transferred or banked MBE scaled score shall only be required to take the MPT and MEE portions of the bar examination. Such applicants will not be permitted to take the MBE portion of the examination. Applicants who fail to meet the above deadlines for indicating their intention to transfer or bank MBE scores will not be allowed to do so and must sit for all portions of the Iowa examination. It is the applicant's responsibility to ensure that the scaled MBE score is sent to the assistant director by the pertinent date indicated above.

[Court Order June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 102); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; September 17, 2008]

**Rule 31.5 Bar examination application—contents and deadlines.**

**31.5(1)** The board of law examiners and the assistant director shall prepare such forms as may be necessary for application for examination. The application shall require the applicant to demonstrate the applicant is a person of honesty, integrity, and trustworthiness, and one who appreciates and will adhere to the Iowa Rules of Professional Conduct as adopted by the supreme court, together with such other information as the board and the assistant director determine necessary and proper.

**31.5(2)** Every applicant for admission to the bar shall make application, under oath, and upon a form furnished by the assistant director. The applicant shall file the application with the assistant director no later than April 1 preceding the July examination or November 1 preceding the February examination. An applicant who fails the Iowa bar examination and wants to take the next examination must file a new application within the above deadlines or within 30 days of the date the applicant's score is posted in the office of professional regulation, whichever is later. There shall be no waiver of these deadlines. If any changes occur after the application is filed that affect the applicant's answers, the applicant must amend the application. A new and complete application shall be filed for each examination for admission.

**31.5(3)** The board may designate portions of the data submitted for this purpose by the applicant or third parties as a confidential record. The board and the assistant director shall segregate that portion of the application data deemed confidential from the portion which is filed as a public record. In the event of a request for a hearing on character or fitness under rule 31.11(4) following an initial determination by the board, it may designate any additional information received at the hearing and all proceedings before the board as a confidential record.

[Court Order October 14, 1968; July 2, 1975; November 21, 1977; March 20, 1987, effective June 1, 1987; February 16, 1990, effective March 15, 1990; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 103); November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012]

**Rule 31.6 Fee.** Every applicant for admission to the bar upon examination shall, as a part of the application, remit to the Iowa board of law examiners an application fee. For applicants not previously admitted to practice law in any other state or the District of Columbia, the fee shall be \$425. For applicants previously admitted to practice law in another state or the District of Columbia, the fee shall be \$525. This fee is not refundable and cannot be applied to a subsequent application.

[Court Order July 2, 1975; December 16, 1983—received for publication May 30, 1984; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 113); October 11, 2001; November 9, 2001, effective February 15, 2002; August 21, 2013]

**Rule 31.7 Affidavit of intent to practice.** All applicants for the Iowa bar examination shall demonstrate a bona fide intention to practice law in Iowa. This showing must be by affidavit made before an officer authorized to administer oaths and having a seal.

The affidavit must include the applicant's designation of the clerk of the supreme court as the applicant's agent for service of process in Iowa for all purposes. [Court Order July 2, 1975; November 21, 1977; October 28, 1982; December 30, 1983; April 25, 1985; March 23, 1994, effective July 1, 1994; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 105); November 9, 2001, effective February 15, 2002]

**Rule 31.8 Degree requirement.** No person shall be permitted to take the examination for admission without proof that the person has received the degree of LL.B. or J.D. from a reputable law school fully approved by the American Bar Association. Proof of this requirement shall be by affidavit of the dean of such law school, and shall show that the applicant has actually and in good faith pursued the study of law resulting in the degree required by this rule. The affidavit must be made before an officer authorized to administer oaths and having a seal.

If an applicant is a student in such a law school and expects to receive the degree of LL.B. or J.D. within 45 days from the first day of the July or February examination, the applicant shall be permitted to take the examination upon the filing of an affidavit by the dean of said school stating that the dean expects the applicant to receive such a degree within this time. No certificate of admission or license to practice law shall be issued until the applicant has received the required degree. If the applicant fails to obtain the degree within the 45-day period, the results of the applicant's examination shall be null and void.

[Court Order July 15, 1963; February 9, 1967; December 30, 1971; February 15, 1973; July 2, 1975; November 21, 1977; June 13, 1983; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 106); May 2, 1997; November 9, 2001, effective February 15, 2002]

**Rule 31.9 Moral character and fitness.**

**31.9(1)** The Iowa board of law examiners shall make an investigation of the moral character and fitness of any applicant and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report.

*a.* Immediately upon the filing of the application, the chair of the Iowa board of law examiners shall notify the president of a local bar association and the county attorney of the county in which the applicant resides of the filing of the application. If either of said officers is possessed of information which reflects adversely on the moral character or fitness of the applicant, such information shall be transmitted to the chair of the board of law examiners not less than 60 days in advance of the holding of the examination.

*b.* The Iowa board of law examiners shall, subject to supreme court review, determine whether or not the applicant is of good moral character and fitness. In making its determination, the board shall consider the applicant's candor in the application process and in any interactions with the board or its staff.

**31.9(2)** *Denial of permission to take bar examination; denial of recommendation for admission.* When the board of law examiners determines that any person who registers or makes application should not be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board shall notify the applicant in writing of its determination.

*a.* The notice shall provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the assistant director within 10 days after service of the notice.

*b.* The assistant director shall serve the notice on the applicant by mail to the address shown on the applicant's application.

*c.* If no request for hearing is filed, the board's determination shall be final and not subject to review.

*d.* If a request for hearing is filed, the chair of the board shall appoint an attorney member of the board to act as a hearing officer. The hearing officer shall promptly set a hearing, and the assistant director shall notify the applicant by mail at least 10 days before the hearing date of the time and place of hearing.

*e.* Not less than 10 days before the hearing date, the board shall furnish the applicant with copies of all document and summaries of all other information the board relied on in making its determination.

*f.* The clerk of court in the county where the hearing is held shall have authority to issue any necessary subpoenas for the hearing.

*g.* At the hearing, the applicant shall have the right to appear in person and by counsel. The board may be represented by the attorney general of the state of Iowa or a duly appointed assistant attorney general. The hearing shall be reported. The hearing officer shall take judicial notice of the information the board considered in the case and shall consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board shall first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant shall present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In presiding at the hearing, the hearing officer shall have the power and authority administrative hearing officers possess generally.

*h.* Within 30 days after completion of the hearing, the hearing officer shall provide the board with a hearing transcript, exhibits, and findings of fact and conclusions of law. Based on this information, the board shall prepare and file its final determination with the assistant director. The assistant director shall, by mail, promptly notify the applicant of the board's final determination.

**31.9(3) *Supreme court review.*** Any applicant aggrieved by a final determination of the board made pursuant to rule 31.9(2) may file a petition requesting review of the determination in the supreme court within 20 days of the mailing of notice of final determination. The petition must be accompanied by a \$150 fee. If no such petition is filed within the 20-day period, the board's determination shall not be subject to review. A petition for review shall state all claims of error and reasons for challenging the board's determination. The board shall transmit to the supreme court its files and complete record in the case. Unless the court orders otherwise, the petition shall be deemed submitted for the court's review on the record previously made. After consideration of the record, the court shall enter its order sustaining or denying the petition. The order of the court shall be conclusive. No subsequent application for admission by a person denied under rule 31.9(2) shall be considered by the board unless authorized by the court upon the applicant's motion accompanied by a prima facie showing of a substantial change of circumstances.

**31.9(4) *Costs of review.*** In the event an applicant or person who is registered petitions for review under rule 31.9(3) and is unsuccessful, the costs of the appeal shall be taxed against the unsuccessful applicant and judgment therefor may be entered in the district court of that person's county of residence, if an Iowa resident, or in the district court for Polk County if a nonresident.

**31.9(5) *Failure to comply with support order.*** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.

*a. Procedure.* The Child Support Recovery Unit (CSRU) shall file any certificate of noncompliance that involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.20(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.20(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.

**31.9(6)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the College Student Aid Commission.

*a. Procedure.* The College Student Aid Commission (the commission) shall file any certificate of noncompliance that involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.21(1), except that the notice

shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.21(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the court.

**31.9(7)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue (CCU).

*a. Procedure.* The CCU shall file any certificate of noncompliance that involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.22(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.22(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the CCU for the sole purpose of allowing the CCU to identify applicants subject to enforcement under Iowa Code chapter 272D.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 104); December 20, 1996; November 25, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012]

**Rule 31.10 Preservation of anonymity.** Each applicant permitted to take the bar examination shall be randomly assigned a number at the beginning of the examination, by which number the applicant shall be known throughout the examination.

Either the assistant director or the director of the office of professional regulation, or their representatives, shall prepare a list of the applicants, showing the number assigned to each at the beginning of the examination, certify to such facts, seal said list in an envelope immediately after the beginning of said examination and retain the same sealed, in their possession, unopened until after the applicant's score has been properly recorded. The envelope shall then be opened in the presence of the Iowa board of law examiners and the correct name entered opposite the number assigned to each applicant, in the presence of the Iowa board of law examiners.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 107); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008]

**Rule 31.11 Automatic review.**

**31.11(1) Score range for review.** An applicant whose combined, scaled score on the current examination is at least 260, but less than 266, shall have an automatic review of the written portion of the bar examination prior to release of the bar examination results.

**31.11(2) Procedures for automatic review.** The board shall apply the following procedures for applicants eligible for an automatic review:

*a.* The attorney members of the board and any temporary examiners the board may designate will review the applicant's written answers. The answers shall be submitted on an anonymous basis without oral argument or hearing. If it appears that an answer should receive a different score (whether higher or lower), that score will be used to determine the applicant's scaled score. The board shall maintain a record of any changes made to the scoring of the individual questions on review.

*b.* Following its review, the board shall recommend to the supreme court that the applicant be admitted to the practice of law in Iowa if the applicant's combined, scaled score after review is at

least 266. An applicant whose combined, scaled score after review is 265 or below shall be deemed to have failed the examination.

**31.11(3) *Supreme court review.*** An unsuccessful applicant whose combined, scaled score on the bar examination is at least 260, but less than 266, may file a petition requesting review of the board's determination in the supreme court. However, the board's decision regarding an applicant's score is final and will not be reviewed by the court absent extraordinary circumstances. "Extraordinary circumstances" would include issues such as the board's refusal to correct a clear mathematical error, but would not include a claim that the board erred in the grade assigned to a particular answer. The petition shall be filed with the clerk of the supreme court and served upon the board. The petition must be filed within 20 days of the date the applicant's score is posted in the office of professional regulation and must be accompanied by a \$150 fee. If no such petition is filed within the 20-day period, the board's determination shall not be subject to review. The petition for review shall identify in detail the extraordinary circumstances requiring supreme court review of the board's determination. Upon request of the court, the board shall transmit to the supreme court the complete record in the case. Unless the court orders otherwise, the petition shall be deemed submitted for the court's review on the record previously made. After consideration of the record, the court shall enter its order sustaining or denying the petition. The order of the court shall be conclusive. All documents submitted for the court's review, other than the applicant's petition, shall be confidential.

[Court Order July 2, 1975; September 20, 1976; April 25, 1985; March 31, 1986, effective May 1, 1986; April 17, 1990, effective June 1, 1990; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 117.1) July 19, 1999; November 9, 2001, effective February 15, 2002; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; February 20, 2012; July 13, 2012]

**Rule 31.12 Admission of attorneys from other jurisdictions—requirements and fees.**

**31.12(1)** An applicant who meets the requirements of this rule and rule 31.13 may, in the discretion of the court, be admitted to the practice of law in this state without examination.

**31.12(2)** The applicant shall file the application with the National Conference of Bar Examiners through their online character and fitness application process unless an exception is granted by the Office of Professional Regulation. The applicant shall pay a nonrefundable administrative fee of \$525 to the Office of Professional Regulation at the time of filing the application. The character investigation services of the National Conference of Bar Examiners shall be procured in all cases where application for admission on motion is made. The applicant shall pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.

**31.12(3)** The application and supporting affidavits, which shall contain specific facts and details as opposed to conclusions and which shall be made before an officer authorized to administer oaths, must demonstrate the following:

*a.* The applicant has been admitted to the bar of any other state of the United States or the District of Columbia, has practiced law five full years while licensed within the seven years immediately preceding the date of the application, and still holds a license.

*b.* The applicant is a person of honesty, integrity, and trustworthiness, and one who will adhere to the Iowa Rules of Professional Conduct. In evaluating this factor the court may consider any findings filed with the Office of Professional Regulation by the Commission on the Unauthorized Practice of Law pursuant to Iowa Ct. R. 37.3.

*c.* The applicant is not currently subject to lawyer discipline in any other jurisdiction.

**31.12(4)** The applicant shall provide such information as the court deems necessary and proper in connection with the application. If any changes occur that affect the applicant's answers, the applicant must immediately amend the application.

**31.12(5)** The applicant shall designate the supreme court clerk for service of process.

**31.12(6)** For purposes of this rule, the practice of law shall include the following activities:

*a.* Representation of one or more clients in the practice of law.

*b.* Service as a lawyer with a local, state, or federal agency.

*c.* The teaching of law as a full-time instructor in a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association in this state or some other state.

*d.* The discharge of actual legal duties as a member of one of the armed services of the United States, if certified as the practice of law by the judge advocate general of such service.

*e.* Service as a judge in a federal, state, or local court of record.

*f.* Service as a judicial law clerk.

g. Service as corporate counsel.

h. Service as an employee or officer of any business, but only if such service would ordinarily constitute the practice of law and was performed in a jurisdiction in which the applicant has been admitted to practice.

**31.12(7)** For purposes of this rule, the practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

**31.12(8)** The following applicants shall not be eligible for admission on motion:

a. An applicant who has failed a bar examination administered in this state within five years of the date of filing of the application under this rule.

b. An applicant who has failed five or more bar examinations.

c. An applicant whose Iowa license is in exempt or inactive status under the provisions of rule 39.7 or rule 41.7.

d. An applicant who has been disbarred and not reinstated or whose license is currently suspended in any other jurisdiction.

[Court Order July 2, 1975; September 20, 1976; February 12, 1981; Note September 30, 1981; Court Order December 17, 1982; December 30, 1983; April 23, 1985; November 8, 1985; March 31, 1986, effective May 1, 1986; November 21, 1991, effective January 2, 1992; November 30, 1994, effective January 3, 1995; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 114); May 2, 1997; October 11, 2001; November 9, 2001, effective February 15, 2002; February 22, 2002; April 20, 2005, effective July 1, 2005; August 6, 2007; February 14, 2008, effective April 1, 2008; October 15, 2008; August 10, 2009; January 19, 2010; July 13, 2012; December 10, 2012; August 21, 2013]

**Rule 31.13 Proofs of qualifications; oath or affirmation.**

**31.13(1)** *Required certificates, affidavit, and fingerprint card.* The following proofs must be filed with the office of professional regulation to qualify an applicant for admission under rule 31.12:

a. A certificate of admission in the applicant's state of licensure.

b. A certificate of a clerk or judge of a court of record, or of a judge advocate general or an administrative law judge, that the applicant was regularly engaged in the practice of law in said state for at least five of the last seven years immediately preceding the date of the application. If, due to the nature of the applicant's practice, the applicant cannot obtain a certificate from a clerk, judge, judge advocate general, or an administrative law judge, the applicant shall file a petition seeking leave to file an alternative certificate demonstrating good cause why the certificate cannot be obtained. If the supreme court grants the petition, the applicant shall file an affidavit detailing the nature, dates, and locations of the applicant's practice, along with an affidavit of a supervising attorney or another lawyer attesting to the applicant's practice over that period.

c. A certificate of an applicant's good moral character from a judge or clerk of the Iowa district court or of a court where the applicant has practiced within the last five years.

d. A completed fingerprint card.

**31.13(2)** *Oath or affirmation.*

a. An applicant whose application for admission without examination is granted must appear for admission before a supreme court justice unless the supreme court orders otherwise based upon a satisfactory showing of exceptional circumstances.

b. An applicant may file a petition seeking permission to be administered the lawyer's oath or affirmation in the jurisdiction in which the applicant is currently licensed or before a judge advocate general if the applicant is currently a member of one of the armed services of the United States. The petition must set forth in detail: the exceptional circumstances that render the applicant unable to appear for admission before a justice of the supreme court of Iowa; the name, title, business address, and telephone number of the justice, judge, clerk of court, court administrator, or the judge advocate general who will administer the lawyer's oath or affirmation; and the statute or court rule authorizing that person to administer an oath or affirmation.

c. If the supreme court grants the petition, the office of professional regulation shall forward all required documents to the applicant. The applicant will be deemed admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.

d. The applicant must take the lawyer's oath or affirmation from an Iowa justice, or file the completed paperwork from an out-of-state oath or affirmation, within six months after the date the application for admission on motion is granted or the application will be deemed to be denied. [Court Order July 2, 1975; December 30, 1982; December 30, 1983; April 23, 1985; November 8, 1985; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 115); November 9, 2001, effective February 15, 2002; May 31, 2006; October 31, 2006; February 14, 2008, effective April 1, 2008; October 15, 2008; January 19, 2010; December 10, 2012]

**Rule 31.14 Admission pro hac vice before Iowa courts and administrative agencies.**

**31.14(1) Definitions.**

a. An "out-of-state" lawyer is a person who:

(1) Is not admitted to practice law in this state but who is admitted in another state or territory of the United States or of the District of Columbia, or is licensed to practice as a foreign legal consultant in any state or territory of the United States or of the District of Columbia; and

(2) Is not disbarred or suspended from practice in any jurisdiction.

b. An out-of-state lawyer is "eligible" for admission pro hac vice if any of the following conditions are satisfied:

(1) The lawyer lawfully practices solely on behalf of the lawyer's employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work.

(2) The lawyer neither resides nor is regularly employed at an office in this state.

(3) The lawyer resides in this state but (i) lawfully practices from offices in one or more other states and (ii) practices no more than temporarily in this state, whether pursuant to admission pro hac vice or in other lawful ways.

c. An "in-state" lawyer is a person admitted to practice law in this state and is not disbarred or suspended from practice in this state.

d. A "client" is a person or entity for whom the out-of-state lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer's performance of services in this state.

e. "This state" refers to Iowa. This rule does not govern proceedings before a federal court or federal agency located in this state unless that body adopts or incorporates this rule.

**31.14(2) Authority of court or agency to permit appearance by out-of-state lawyer.**

a. *Court proceeding.* A court of this state may, in its discretion, admit an eligible out-of-state lawyer, who is retained to appear as attorney of record in a particular proceeding, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

b. *Administrative agency proceeding.* If practice before an agency of this state is limited to lawyers, the agency may, using the same standards and procedures as a court, admit an eligible out-of-state lawyer who has been retained to appear in a particular agency proceeding as counsel in that proceeding pro hac vice, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

c. *Subsequent proceedings.* Admission pro hac vice is limited to the particular court or agency proceeding for which admission was granted. An out-of-state lawyer must separately seek admission pro hac vice in any subsequent district or appellate court proceeding.

**31.14(3) In-state lawyer's duties.** When an out-of-state lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to do all of the following:

a. Appear of record together with the out-of-state lawyer in the proceeding.

b. Actively participate in the proceeding. *See* Iowa R. of Prof'l Conduct 32:5.5(c)(1).

c. Accept service on behalf of the out-of-state lawyer as required by Iowa Code section 602.10111.

d. Advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.

**31.14(4) Application procedure.** An eligible out-of-state lawyer seeking to appear in a proceeding pending in this state as counsel pro hac vice shall file a verified application with the court or agency where the litigation is filed. The out-of-state lawyer shall serve the application on all parties who have appeared in the proceeding, and shall include proof of service. Application forms for admission pro hac vice can be found in rule 31.25.

**31.14(5) Required information for application.** An application filed by the out-of-state lawyer shall contain all of the following information:

- a. The out-of-state lawyer's residence and business addresses.
- b. The name, address, and phone number of each client sought to be represented.
- c. The courts before which the out-of-state lawyer has been admitted to practice and the respective period of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.
- d. Whether the out-of-state lawyer has been denied admission *pro hac vice* in this state. If so, specify the caption of the proceedings, the date of the denial, and what findings were made.
- e. Whether the out-of-state lawyer has had admission *pro hac vice* revoked in this state. If so, specify the caption of the proceedings, the date of the revocation, and what findings were made.
- f. Whether the out-of-state lawyer has been denied admission in any jurisdiction for reasons other than failure of a bar examination. If so, specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made.
- g. Whether the out-of-state lawyer has been formally disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.
- h. Whether the out-of-state lawyer has been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the out-of-state lawyer engaged in the unauthorized practice of law in this state or elsewhere. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.
- i. Whether any formal, written disciplinary proceeding has been brought against the out-of-state lawyer by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years, and as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings.
- j. Whether the out-of-state lawyer has been placed on probation by a disciplinary authority in any other jurisdiction. If so, specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made.
- k. Whether the out-of-state lawyer has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. A copy of the written order or transcript of the oral rulings shall be attached to the application.
- l. The name and address of each court or agency and a full identification of each proceeding in which the out-of-state lawyer has filed an application to appear *pro hac vice* in this state within the preceding two years, the date of each application, and the outcome of the application.
- m. An averment as to the out-of-state lawyer's familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court or agency before which the out-of-state lawyer seeks to practice.
- n. The name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the out-of-state lawyer's *pro hac vice* request.
- o. An acknowledgement that service upon the in-state lawyer in all matters connected with the proceedings has the same effect as if personally made upon the out-of-state lawyer.
- p. If the out-of-state lawyer has appeared *pro hac vice* in this state in five proceedings within the preceding two years, the application shall contain a statement showing good cause why the out-of-state attorney should be admitted in the present proceeding.
- q. Any other information the out-of-state lawyer deems necessary to support the application for admission *pro hac vice*.

**31.14(6) *Objection to application.*** A party to the proceeding may file an objection to the application or seek the court's or agency's imposition of conditions to its being granted. The objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The objecting party may seek denial of the application or modification of it. If the application has already been granted, the objecting party may move that the *pro hac vice* admission be revoked.

**31.14(7) *Standard for admission.*** The courts and agencies of this state have discretion as to whether to grant applications for admission pro hac vice. If there is no opposition, the court or agency has the discretion to grant or deny the application summarily. An application ordinarily should be granted unless the court or agency finds one of the following:

- a. The admission of the out-of-state attorney pro hac vice may be detrimental to the prompt, fair, and efficient administration of justice.
- b. The admission of the out-of-state attorney pro hac vice may be detrimental to legitimate interests of parties to the proceedings other than a client the out-of-state lawyer proposes to represent.
- c. One or more of the clients the out-of-state lawyer proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk.
- d. The out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, unless the out-of-state lawyer can show good cause exists for admission.

**31.14(8) *Revocation of admission.*** Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in rule 31.14(7).

**31.14(9) *Discipline, contempt, and sanction authority over the out-of-state lawyer.***

a. During the pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts of this state, the agencies of this state, and the Iowa Supreme Court Attorney Disciplinary Board for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The out-of-state lawyer submits to these authorities for all of the lawyer's conduct (i) within the state while the proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as an in-state lawyer. *See Iowa R. Prof'l Conduct 32:8.5.*

b. The authority to which an out-of-state lawyer submits includes, but is not limited to, the enforcement of the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, contempt and sanction procedures, applicable local rules, and court, agency, and board policies and procedures.

c. An out-of-state lawyer who appears before a court of this state or before an agency of this state when practice is limited to lawyers and who does not obtain admission pro hac vice is engaged in the unauthorized practice of law. *See Iowa R. Prof'l Conduct 32:5.5 cmt. 9.* If an out-of-state lawyer reasonably expects to be admitted pro hac vice, the lawyer may provide legal services that are in or reasonably related to a pending or potential proceeding before a court or agency in this state. *See Iowa R. Prof'l Conduct 32:5.5(c)(2).*

**31.14(10) *Familiarity with rules.*** An out-of-state lawyer shall become familiar with the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, the standards for professional conduct, local court or agency rules, and the policies and procedures of the court or agency before which the out-of-state lawyer seeks to practice.

[Court Order July 2, 1975; June 22, 1976; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 116); April 1, 1999; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; September 27, 2006; March 15, 2007; June 3, 2009]

### **Rule 31.15 Permitted practice by law students and recent graduates.**

**31.15(1)** Law students enrolled in a reputable law school as defined by rule 31.8 and Iowa Code section 602.10102 and certified to the office of professional regulation by the dean of the school to have completed satisfactorily not less than the equivalent of three semesters of the work required by the school to qualify for the J.D. or LL.B. degree, may, under the following conditions, engage in the practice of law or appear as counsel in the trial or appellate courts of this state.

a. Appearance by students as defense counsel in a criminal matter in any trial court shall be confined to misdemeanors, and the student shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

b. Appearance by students in matters before the Iowa Supreme Court or the Iowa Court of Appeals shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

c. Appearance or assistance by students in other matters shall be under the general supervision of licensed Iowa counsel, but such counsel need not be personally present in court unless required by order of the court.

**31.15(2)** Students who the dean of a reputable law school certifies have completed not less than the equivalent of two semesters of work required to qualify for the J.D. or LL.B. degree may appear in a representative capacity in a contested case proceeding before an administrative agency.

*a.* Appearance by students who have completed only two semesters of work shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

*b.* Students who have completed at least three semesters may appear in a representative capacity in a contested case proceeding before an administrative agency under the general supervision of licensed Iowa counsel, but such counsel need not be personally present unless required by order of the tribunal.

**31.15(3)** Except as allowed by rule 31.15(4), students may not engage in the practice of law or appear as counsel in any court of this state or before an administrative agency unless such practice or appearance is part of an educational program approved by the faculty of the students' law school and not disapproved by the Iowa Supreme Court, and such program is supervised by at least one member of the law school's faculty. Students may continue to practice before courts or administrative agencies of this state after completion of an educational program so long as the placement is substantially the same as it was during the educational program, approved by the law school, and performed with the supervision required under rule 31.15(1) and 31.15(2).

**31.15(4)** Law students may assist licensed Iowa counsel to the same extent as a non-attorney without being part of an educational program or being certified to the office of professional regulation, but the students shall be under the general supervision of licensed Iowa counsel who need not be personally present. Law students may not appear in representative capacities in contested case proceedings before administrative agencies without complying with rule 31.15(2) and 31.15(3), or before trial or appellate courts without complying with rule 31.15(1).

**31.15(5)** Law students shall not receive compensation other than general compensation from an employer-attorney or from a law-school-administered fund.

**31.15(6)** Graduates of reputable law schools who have applied to take the Iowa bar examination are authorized to perform all activities described in this rule on behalf of the public defender's office, the attorney general's office, county attorney offices, or approved legal aid organizations under the following conditions:

*a.* Supervision of graduates shall be the same as supervision of law students under rule 31.15(1) and 31.15(2), but graduates do not need to meet the requirements of rule 31.15(3).

*b.* Graduates may perform under this rule beginning with the receipt of a law school dean's certification of graduation and terminating either upon the withdrawal or denial of their application to take the Iowa bar examination, their failure of the next administration of the Iowa bar examination, or upon the date of the admissions ceremony for those who pass that examination.

*c.* Graduates may practice up to 25 hours per week from receipt of a J.D. or LL.B. degree until the administration of the next Iowa bar examination.

*d.* Graduates are not limited in hours of practice under this rule from administration of the bar exam until the date the bar exam results are posted for those who fail or the date of the admissions ceremony for those who pass.

*e.* Graduates who have failed any state bar examination in the past are not eligible to practice under this provision.

*f.* The supervising organizations listed in rule 31.15(6) shall file a certificate with the Office of Professional Regulation of the Iowa Supreme Court (OPR) listing the starting dates for all graduates practicing under rule 31.15(6) and shall file a second certificate indicating when the practice under this rule has terminated.

**31.15(7)** Approved Legal Aid Organization. For purposes of this rule, an "approved legal aid organization" includes a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa.

*a.* A legal aid organization seeking approval from the court for the purposes of this rule shall file a petition with OPR certifying that it is a not-for-profit organization and reciting with specificity the following:

- (1) The structure of the organization and whether it accepts funds from its clients.
- (2) The major sources of funds the organization uses.
- (3) The criteria used to determine potential clients' eligibility for legal services the organization performs.
- (4) The types of legal and nonlegal services the organization performs.
- (5) The names of all members of the Iowa bar who are employed by the organization or who regularly perform legal work for the organization.
- (6) The existence and extent of malpractice insurance that will cover the law student or graduate.

b. An organization designated as an approved legal aid organization under the provisions of rule 31.19(2)(c) is an approved legal aid organization for purposes of this rule. [Court Order April 4, 1967; May 15, 1972; January 14, 1974; April 8, 1975 [withdrawn]; April 9, 1975; April 8, 1980; April 28, 1987; June 5, 1996, effective July 1, 1996 (Prior to July 1, 1996, Court Rule 120); January 9, 1998, effective February 2, 1998; November 9, 2001, effective February 15, 2002; June 4, 2008, effective July 1, 2008; March 21, 2014]

**Rule 31.16 Registration of house counsel.**

**31.16(1) Who must register.** A lawyer who is not admitted to practice law in Iowa, but who is admitted to practice law in another United States jurisdiction or is a foreign lawyer, and who has a continuous presence in this jurisdiction and is employed as a lawyer by an organization as permitted pursuant to Rule 32:5.5(d)(1) of the Iowa Rules of Professional Conduct, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, must register as house counsel within 90 days of the commencement of employment as a lawyer or, if currently so employed, then within 90 days of the effective date of this rule. For purposes of rule 31.16:

a. “United States jurisdiction” includes the District of Columbia and any state, territory, or commonwealth of the United States.

b. A “domestic lawyer” is a lawyer admitted to practice law in the District of Columbia or in any state, territory, or commonwealth of the United States.

c. A “foreign jurisdiction” is any jurisdiction that is not a United States jurisdiction.

d. A “foreign lawyer” is a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.

**31.16(2) Procedure for registering.** The lawyer must submit to the Office of Professional Regulation of the Supreme Court of Iowa the following:

a. If a domestic lawyer, a completed application in the form the office of professional regulation prescribes.

b. If a foreign lawyer, a foreign-licensed attorney application with the National Conference of Bar Examiners through its online character and fitness application process. The applicant must pay the investigative fee that the National Conference of Bar Examiners requires at the time of filing the application.

c. A nonrefundable application fee in the amount of \$500 payable to the Iowa board of law examiners.

d. A \$200 client security assessment payable to the Client Security Commission.

e. Documents proving admission to practice law and current good standing in all jurisdictions, United States and foreign, in which the lawyer is admitted to practice law.

f. A certificate from the disciplinary authority of each jurisdiction of admission, United States and foreign, stating that the lawyer has not been suspended, disbarred, or disciplined and that no charges of professional misconduct are pending; or a certificate that identifies any suspensions, disbarments, or other disciplinary sanctions that have been imposed upon the lawyer, and any pending charges, complaints, or grievances.

g. If the jurisdiction is foreign and the documents are not in English, the lawyer must submit an English translation and satisfactory proof of the accuracy of the translation.

h. An affidavit from an officer, director, or general counsel of the employing entity attesting as follows:

(1) The entity will be employing the lawyer.

(2) To the best of its knowledge the lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.

(3) To the best of its knowledge the lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.

(4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.

(5) While serving as counsel, the lawyer will not provide personal legal services to the entity’s officers or employees, except regarding matters directly related to their work for the entity and only

to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.

(6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.

(7) The entity will promptly notify the Client Security Commission of the termination of the lawyer's employment.

*i.* Any other document the supreme court requires to be submitted.

**31.16(3)** *Scope of authority of registered lawyer.*

*a.* A lawyer registered under this rule has the rights and privileges otherwise applicable to members of the bar of this state with the following restrictions:

(1) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and, except for foreign lawyers, to employees, officers, and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct.

(2) The registered lawyer may not:

1. Except as otherwise permitted by the rules of this state, appear before a court or any other tribunal as defined in rule 32:1.0(m) of the Iowa Rules of Professional Conduct. Registration under this rule does not authorize a lawyer to provide services to the employing entity for which pro hac vice admission is required. A lawyer registered under this rule must therefore comply with the requirements for pro hac vice admission under rule 31.14 for any appearances before a court or any administrative agency.

2. Offer or provide legal services or advice to any person other than as described in rule 31.16(3)(a)(1), or hold himself or herself out as being authorized to practice law in this state other than as described in rule 31.16(3)(a)(1).

3. If a foreign lawyer, provide advice on the law of this state or another United States jurisdiction or of the United States except on the basis of advice from a lawyer who is duly licensed and authorized to provide such advice.

*b.* Notwithstanding the provisions of rule 31.16(3)(a), a lawyer registered under this rule is authorized to provide pro bono legal services through an established not-for-profit bar association, pro bono program or legal services program, or through such organization(s) specifically authorized in this state. This provision does not apply to foreign lawyers registered under this rule.

*c.* A lawyer registered under this rule must:

(1) File an annual statement and pay the annual disciplinary fee as Iowa Court Rules 39.5 and 39.8 require.

(2) Fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in rules 41.3 and 41.4. However, a lawyer is not required to comply with the continuing legal education attendance requirements set forth in rule 41.3 for the calendar year in which the lawyer first registered as house counsel under this rule.

(3) Report to the office of professional regulation within 90 days the following:

1. Termination of the lawyer's employment as described in rule 31.16(2)(h);

2. Whether or not public, any change in the lawyer's license status in another jurisdiction, United States or foreign; and

3. Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction, United States or foreign.

**31.16(4)** *Local discipline.* A registered lawyer under this section is subject to the Iowa Rules of Professional Conduct and all other laws and rules governing lawyers admitted to the active practice of law in this state. The Iowa Supreme Court Attorney Disciplinary Board has and will retain jurisdiction over the registered lawyer with respect to the conduct of the lawyer in this state or another jurisdiction to the same extent as it has over lawyers generally admitted in this jurisdiction.

**31.16(5)** *Automatic termination.* A registered lawyer's rights and privileges under this rule automatically terminate when:

*a.* The lawyer's employment terminates;

*b.* The lawyer is suspended or disbarred from practice in any jurisdiction, United States or foreign, or any court or agency before which the lawyer is admitted; or

*c.* The lawyer no longer maintains active status in at least one jurisdiction, United States or foreign.

**31.16(6) Reinstatement.** A registered lawyer whose registration is terminated under rule 31.16(5)(a) above may be reinstated within 180 days of termination upon submission to the office of professional regulation all of the following:

- a. An application for reinstatement in a form the office of professional regulation prescribes.
- b. A reinstatement fee in the amount of \$100.
- c. An affidavit from the current employing entity as prescribed in rule 31.16(2)(h).

**31.16(7) Sanctions.** A lawyer under this rule who fails to register will be:

- a. Subject to professional discipline in this state.
- b. Ineligible for admission on motion in this state.
- c. Referred by the office of professional regulation to the Iowa Supreme Court Attorney Disciplinary Board.
- d. Referred by the office of professional regulation to the disciplinary authority of the jurisdictions of licensure, United States or foreign.

**31.16(8) Court's discretion.** The supreme court has the discretion to grant or deny an application or to revoke a registration. The court may procure the character investigation services of the National Conference of Bar Examiners, at the lawyer's expense, in any matter in which substantial questions regarding the lawyer's character or fitness to practice law are implicated. The character investigation services will be procured for all foreign lawyer applicants at the applicants' expense. The director of the office of professional regulation must issue a certificate of registration upon the supreme court's approval of the application.

**31.16(9) Duration of registration—credit toward admission on motion.**

a. *Domestic lawyer.* A domestic lawyer may practice law in Iowa under this registration provision for a period of up to five years. If the lawyer intends to continue practicing law in Iowa, the lawyer must, prior to the expiration of the five-year period, apply for admission on motion. *See* Iowa Ct. R. 31.12. The filing of the application within the five-year period extends the registration period until the lawyer is admitted or the application is denied. The period of time the lawyer practices law in Iowa under the registration provisions of this rule may be used to satisfy the duration-of-practice requirement under rule 31.12(3)(a).

b. *Foreign lawyer.* A foreign lawyer registered under this rule is not subject to the five-year limit on house counsel practice and may remain in that status subject to rule 31.16(5), withdrawal of the registration, or admission following successful completion of the Iowa bar examination. The foreign lawyer is not eligible for admission on motion based on practice while registered in Iowa. The foreign lawyer may either remain as house counsel or may attempt to establish academic equivalency allowing the lawyer to sit for the Iowa bar examination. A foreign lawyer seeking to take the bar examination must:

(1) Obtain a scaled score of at least 80 on the Multistate Professional Responsibility Examination (MPRE) before seeking permission to take the bar examination. The MPRE score must be from an examination taken within three years immediately preceding the filing date of the application.

(2) Provide an affidavit giving a detailed description of the lawyer's practice while registered as house counsel and an estimate of how many hours per year the lawyer engaged in the practice of law during that period.

(3) Provide an affidavit from an officer, partner, director, or general counsel of the employing entity attesting that the foreign lawyer's affidavit is accurate and that the foreign lawyer possesses the character and fitness to practice law in Iowa.

(4) Submit the lawyer's credentials to an ABA-approved law school in this state for a recommendation of what schedule of courses, if any, would render the applicant educationally qualified to sit for the examination. The foreign lawyer may then petition the court to approve the proposed course of study. If the court approves the petition, the foreign lawyer must attach to the bar application a copy of the law school dean's affidavit stating the foreign lawyer successfully completed the approved course of study and is believed to be educationally qualified to sit for the examination. The foreign lawyer will be allowed to sit for the examination provided all other requirements are met.

**31.16(10) Lawyers registered under prior version of this rule.** A lawyer registered under the prior version of this rule is not required to register again or pay the registration fee. The adoption of this rule does not affect any existing five-year period for terminating registration as house counsel and applying for admission on motion. That date will run from the date of the lawyer's registration as house counsel. All other provisions of this rule apply.

**31.16(11)** *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the centralized collection unit of the Iowa Department of Revenue.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the centralized collection unit of the Iowa Department of Revenue. Rule 31.9(7) governs this procedure.

**31.16(12)** *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the College Student Aid Commission. Rule 31.9(6) governs this procedure.

**31.16(13)** *Denial of application or suspension of registration for failure to comply with a support order.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with a support order. Rule 31.9(5) governs this procedure.

[Court Orders April 20, 2005, and July 1, 2005, effective July 1, 2005; September 1, 2005; June 16, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; September 12, 2012; August 21, 2013; May 18, 2015, effective July 1, 2015]

### **Rule 31.17 Provision of legal services following determination of major disaster.**

**31.17(1)** *Determination of existence of major disaster.* Solely for purposes of this rule, this court shall determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred in:

a. This state and whether the emergency caused by the major disaster affects the entirety or only a part of the state, or

b. Another jurisdiction but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in this state pursuant to rule 31.17(3) shall extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

**31.17(2)** *Temporary practice—pro bono services.* Following the determination of an emergency affecting the justice system in this state pursuant to rule 31.17(1), or a determination that persons displaced by a major disaster in another jurisdiction and residing in this state are in need of pro bono services and the assistance of lawyers from outside of this state is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this state on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be assigned and supervised through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically designated by this court.

**31.17(3)** *Temporary practice—legal services arising out of and reasonably related to a lawyer's practice of law in another jurisdiction, or area of such other jurisdiction, where the disaster occurred.* Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and who principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this state on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

**31.17(4)** *Duration of authority for temporary practice.* The authority to practice law in this state granted by rule 31.17(2) shall end when this court determines that the conditions caused by the major disaster have ended except that a lawyer then representing clients in this state pursuant to rule 31.17(2) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer shall not thereafter accept new clients. The authority to practice law in this state granted by rule 31.17(3) shall end 60 days after this court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

**31.17(5)** *Court appearances.* The authority granted by this rule does not include appearances in court except:

a. Pursuant to this court's pro hac vice admission rule; or

b. If this court, in any determination made under rule 31.17(1), grants blanket permission to appear in all or designated courts of this state to lawyers providing legal services pursuant to rule 31.17(2).

**31.17(6) *Disciplinary authority and registration requirement.*** Lawyers providing legal services in this state pursuant to rule 31.17(2) or (3) are subject to this court's disciplinary authority and the Iowa Rules of Professional Conduct as provided in Iowa R. of Prof'l Conduct 8.5. Lawyers providing legal services in this state under rule 31.17(2) or (3) shall, within 30 days from the commencement of the provision of legal services, file a registration statement with the office of professional regulation. A form for the registration statement can be found in rule 31.25. Any lawyer who provides legal services pursuant to this rule shall not be considered to be engaged in the unlawful practice of law in this state.

**31.17(7) *Notification to clients.*** Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to this rule shall inform clients in this state of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in this state except as permitted by this rule. They shall not state or imply to any person that they are otherwise authorized to practice law in this state.

*The comment accompanying this rule explains and illustrates the meaning and purpose of the rule. The comment is intended as a guide to interpretation, but the text of the rule is authoritative.*

#### COMMENT

[1] A major disaster in this state or another jurisdiction may cause an emergency affecting the justice system with respect to the provision of legal services for a sustained period of time interfering with the ability of lawyers admitted and practicing in the affected jurisdiction to continue to represent clients until the disaster has ended. When this happens, lawyers from the affected jurisdiction may need to provide legal services to their clients, on a temporary basis, from an office outside their home jurisdiction. In addition, lawyers in an unaffected jurisdiction may be willing to serve residents of the affected jurisdiction who have unmet legal needs as a result of the disaster or, though independent of the disaster, whose legal needs temporarily are unmet because of disruption to the practices of local lawyers. Lawyers from unaffected jurisdictions may offer to provide these legal services either by traveling to the affected jurisdiction or from their own offices or both, provided the legal services are provided on a pro bono basis through an authorized not-for-profit entity or such other organization(s) specifically designated by this court. A major disaster includes, for example, a hurricane, earthquake, flood, wildfire, tornado, public health emergency or an event caused by terrorists or acts of war.

[2] Under rule 31.17(1)(a), this court shall determine whether a major disaster causing an emergency affecting the justice system has occurred in this state, or in a part of this state, for purposes of triggering rule 31.17(2). This court may, for example, determine that the entirety of this state has suffered a disruption in the provision of legal services or that only certain areas have suffered such an event. The authority granted by rule 31.17(2) shall extend only to lawyers authorized to practice law and not disbarred, suspended from practice or otherwise restricted from practice in any other manner in any other jurisdiction.

[3] Rule 31.17(2) permits lawyers authorized to practice law in another jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, to provide pro bono legal services to residents of this state following a determination of an emergency caused by a major disaster; notwithstanding that they are not otherwise authorized to practice law in this state. Other restrictions on a lawyer's license to practice law that would prohibit that lawyer from providing legal services pursuant to this rule include, but are not limited to, probation, inactive status, disability inactive status or a non-disciplinary administrative suspension for failure to complete continuing legal education or other requirements. Lawyers on probation may be subject to monitoring and specific limitations on their practices. Lawyers on inactive status, despite being characterized in many jurisdictions as being "in good standing," and lawyers on disability inactive status are not permitted to practice law. Public protection warrants exclusion of these lawyers from the authority to provide legal services as defined in this rule. Lawyers permitted to provide legal services pursuant to this rule must do so without fee or other compensation, or expectation thereof. Their service must be provided through an established not-for-profit organization that is authorized to provide legal services either in its own name or that provides representation of clients through employed or cooperating lawyers. Alternatively, this court may instead designate other specific organization(s) through which these legal services may be rendered. Under rule 31.17(2), an emeritus lawyer from another United States jurisdiction may provide pro bono legal services on a temporary basis in this state provided that the emeritus lawyer is authorized to provide pro bono legal services in that jurisdiction pursuant to that jurisdiction's emeritus or pro bono practice rule. Lawyers may also be authorized to provide legal services in this state on a temporary basis under Iowa R. of Prof'l Conduct 32:5.5(c).

[4] Lawyers authorized to practice law in another jurisdiction, who principally practice in the area of such other jurisdiction determined by this court to have suffered a major disaster, and whose practices are disrupted by a major disaster there, and who are not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, are authorized under rule 31.17(3) to provide legal services on a temporary basis in this state. Those legal services must arise out of and be reasonably related to the lawyer's practice of law in the affected jurisdiction. For purposes of this rule, the determination of a major disaster in another jurisdiction should first be made by the highest court of appellate jurisdiction in that jurisdiction. For the meaning of "arise out of and reasonably related to," see Iowa R. of Prof'l Conduct 32:5.5, cmt. [14].

[5] Emergency conditions created by major disasters end, and when they do, the authority created by rules 31.17(2) and (3) also ends with appropriate notice to enable lawyers to plan and to complete pending legal matters. Under rule 31.17(4), this court determines when those conditions end only for purposes of this rule. The authority granted under rule 31.17(2) shall end upon such determination except that lawyers assisting residents of this state under rule 31.17(2) may continue to do so for such longer period as is reasonably necessary to complete the representation. The authority created by rule 31.17(3) will end 60 days after this court makes such a determination with regard to an affected jurisdiction.

[6] Rules 31.17(2) and (3) do not authorize lawyers to appear in the courts of this state. Court appearances are subject to the pro hac vice admission rules of this court. This court may, in a determination made under rule 31.17(5)(b), include authorization for lawyers who provide legal services in this state under rule 31.17(2) to appear in all or designated courts of this state without need for such pro hac vice admission. A lawyer who has appeared in the courts of this state pursuant to rule 31.17(5) may continue to appear in any such matter notwithstanding a declaration under rule 31.17(4) that the conditions

created by major disaster have ended. Furthermore, withdrawal from a court appearance is subject to Iowa R. of Prof'l Conduct 32:1.16.

[7] Authorization to practice law as a foreign legal consultant or in-house counsel in a United States jurisdiction offers lawyers a limited scope of permitted practice and may therefore restrict that person's ability to provide legal services under this rule.

[8] The ABA National Lawyer Regulatory Data Bank is available to help determine whether any lawyer seeking to practice in this state pursuant to rule 31.17(2) or (3) is disbarred, suspended from practice or otherwise subject to a public disciplinary sanction that would restrict the lawyer's ability to practice law in any other jurisdiction.

[Court Order May 14, 2007; February 14, 2008, effective April 1, 2008]

### **Rule 31.18 Licensing and practice of foreign legal consultants.**

**31.18(1) *General regulation as to licensing.*** In its discretion, the supreme court may license to practice in the State of Iowa as a foreign legal consultant, without examination, an applicant who:

*a.* Is, and for at least five years has been, a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;

*b.* For at least five years preceding his or her application has been a member in good standing of such legal profession and has been lawfully engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country;

*c.* Possesses the good moral character and general fitness requisite for a member of the bar of this state; and

*d.* Intends to practice as a foreign legal consultant in this state and to maintain an office in this state for that purpose.

#### **31.18(2) *Application and fee.***

*a.* The applicant shall file an application for a foreign legal consultant license with the National Conference of Bar Examiners through their online character and fitness application process at <http://www.ncbex.org/ea>, unless an exception is granted by the Office of Professional Regulation. The applicant shall pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.

*b.* In addition, the applicant shall file the following documents and fee with the Office of Professional Regulation:

(1) A certificate from the professional body or public authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted, certifying the applicant's admission to practice, date of admission, and good standing as a lawyer or counselor at law or the equivalent, and certifying that the applicant has not been disciplined and no charges of professional misconduct are pending, or identifying any disciplinary sanctions that have been imposed upon the applicant or any pending charges, complaints, or grievances;

(2) A letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction in the foreign country in which the applicant is admitted;

(3) Duly authenticated English translations of the certificate required by rule 31.18(2)(b)(1) and the letter required by rule 31.18(2)(b)(2) if they are not in English;

(4) The requisite documentation establishing the applicant's compliance with the immigration laws of the United States;

(5) Other evidence as the supreme court may require regarding the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of rule 31.18(1); and

(6) An administrative fee of \$500 payable to the Office of Professional Regulation at the time the application is filed.

**31.18(3) *Scope of practice.*** A person licensed to practice as a foreign legal consultant under this rule may render legal services in this state, but shall not be considered admitted to practice law here, or in any way hold himself or herself out as a member of the bar of this state, or do any of the following:

*a.* Appear as a lawyer on behalf of another person in any court, or before any magistrate or other judicial officer, in this state (except when admitted pro hac vice pursuant to Iowa Ct. R. 31.14);

*b.* Prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

*c.* Prepare:

(1) Any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or

(2) Any instrument relating to the administration of a decedent's estate in the United States of America;

*d.* Prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

*e.* Render professional legal advice on the law of this state or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise);

*f.* Carry on a practice under, or utilize in connection with such practice, any name, title, or designation other than one or more of the following:

(1) The foreign legal consultant's own name;

(2) The name of the law firm with which the foreign legal consultant is affiliated;

(3) The foreign legal consultant's authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of that country; and

(4) The title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."

**31.18(4) *Rights and obligations.*** Subject to the limitations listed in rule 31.18(3), a person licensed under this rule shall be considered a foreign legal consultant affiliated with the bar of this state and shall be entitled and subject to:

*a.* The rights and obligations set forth in the Iowa Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this state under the Iowa Court Rules; and

*b.* The rights and obligations of a member of the bar of this state with respect to:

(1) Affiliation in the same law firm with one or more members of the bar of this state, including by:

1. Employing one or more members of the bar of this state;

2. Being employed by one or more members of the bar of this state or by any partnership [or professional corporation] that includes members of the bar of this state or that maintains an office in this state; and

3. Being a partner in any partnership [or shareholder in any professional corporation] that includes members of the bar of this state or that maintains an office in this state; and

(2) Attorney-client privilege, work-product privilege, and similar professional privileges.

**31.18(5) *Discipline.*** A person licensed to practice as a foreign legal consultant under this rule shall be subject to professional discipline in the same manner and to the same extent as members of the bar of this state. To this end:

*a.* Every person licensed to practice as a foreign legal consultant under this rule:

(1) Shall be subject to the jurisdiction of the supreme court and the Iowa Supreme Court Attorney Disciplinary Board and to reprimand, suspension, removal, or revocation of his or her license to practice by the supreme court and shall otherwise be governed by the Iowa Rules of Professional Conduct and the Iowa Court Rules; and

(2) Shall execute and file with the clerk of the supreme court, in the form and manner as the court may prescribe:

1. A commitment to observe the Iowa Rules of Professional Conduct and the Iowa Court Rules to the extent applicable to the legal services authorized under rule 31.18(3);

2. A written undertaking to notify the court of any change in the foreign legal consultant's good standing as a member of the foreign legal profession referred to in rule 31.18(1)(a) and of any final action of the professional body or public authority referred to in rule 31.18(2)(b)(1) imposing any disciplinary reprimand, suspension, or other sanction upon the foreign legal consultant; and

3. A duly acknowledged instrument in writing, providing the foreign legal consultant's address in this state and designating the clerk of the supreme court as his or her agent for service of process. The foreign legal consultant shall keep the Office of Professional Regulation advised in writing of any changes of address in this jurisdiction. In any action or proceeding brought against the foreign legal consultant and arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within this state or to residents of this state, service shall first be attempted upon the foreign legal consultant at the most recent address filed with the clerk. Whenever after due diligence service cannot be made upon the foreign legal consultant at that address, service may be

made upon the clerk. Service made upon the clerk in accordance with this provision is effective as if service had been made personally upon the foreign legal consultant.

b. Service of process on the clerk under rule 31.18(5)(a)(2)“3” shall be made by personally delivering to the clerk’s office, and leaving with the clerk, or with a deputy or assistant authorized by the clerk to receive service, duplicate copies of the process. The clerk shall promptly send one copy of the process to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the most recent address provided in accordance with rule 31.18(5)(a)(2)“3.”

**31.18(6) Required fees and annual statements.** A person licensed as a foreign legal consultant shall pay a \$200 registration fee to the Client Security Commission. The person licensed under this rule shall file an annual statement and pay the annual disciplinary fee as required by Iowa Ct. Rs. 39.5 and 39.8.

**31.18(7) Revocation of license.** If the supreme court determines that a person licensed as a foreign legal consultant under this rule no longer meets the requirements for licensure set forth in rule 31.18(1)(a) or (b), it shall revoke the foreign legal consultant’s license.

**31.18(8) Admission to bar.** If a person licensed as a foreign legal consultant under this rule is subsequently admitted as a member of the bar of this state under the rules governing admission, that person’s foreign legal consultant license shall be deemed superseded by the license to practice law as a member of the bar of this state.

[Court Order June 3, 2009; January 19, 2010; August 21, 2013]

### **Rule 31.19 Certification and pro bono participation of emeritus attorneys.**

**31.19(1) Purpose.** The following rule establishes the emeritus attorneys pro bono participation program.

#### **31.19(2) Definitions.**

a. *Emeritus attorney.* An “emeritus attorney” is any person who is admitted to practice law in Iowa and is on inactive, active, or retired status at the time of application, or who is or was admitted to practice law before the highest court of any other state or territory of the United States or the District of Columbia, and:

- (1) Does not have a pending disciplinary proceeding;
- (2) Has never been disbarred or had a license to practice law revoked in any jurisdiction;
- (3) Agrees to abide by the Iowa Rules of Professional Conduct and submit to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes;
- (4) Neither requests nor accepts compensation of any kind for the legal services to be rendered under this chapter; and
- (5) Is certified under this rule.

b. *Active.* For purposes of this rule, “active” describes lawyers with the status of corporate, full-time, part-time, government, judge, or military service for purposes of the Client Security Commission.

c. *Approved legal aid organization.* For purposes of this rule, an “approved legal aid organization” shall include a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa. A legal aid organization seeking approval from the court for the purposes of this rule shall file a petition with the Office of Professional Regulation certifying that it is a not-for-profit organization and reciting with specificity:

- (1) The structure of the organization and whether it accepts funds from its clients;
- (2) The major sources of funds the organization uses;
- (3) The criteria used to determine potential clients’ eligibility for legal services the organization performs;
- (4) The types of legal and nonlegal services the organization performs;
- (5) The names of all members of the Iowa bar the organization employs or who regularly perform legal work for the organization;
- (6) The existence and extent of malpractice insurance that will cover the emeritus attorney;
- (7) The number of attorneys on the organization’s board of directors; and
- (8) The availability of in-house continuing legal education.

#### **31.19(3) Activities.**

*a. Permissible activities.* An emeritus attorney, in association with an approved legal aid organization, may perform the following activities:

(1) The emeritus attorney may appear in any court or before any administrative tribunal in this state on behalf of a client of an approved legal aid organization.

(2) The emeritus attorney may prepare pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the emeritus attorney is involved. Such pleadings shall include the attorney's status as emeritus attorney and the name of the approved legal aid organization, except as permitted by Iowa Rule of Civil Procedure 1.423.

(3) The emeritus attorney may provide advice, screening, transactional, and other activities for clients of approved legal aid organizations.

*b. Determination of nature of participation.* The presiding judge or hearing officer may, in the judge's or officer's discretion, determine the extent of the emeritus attorney's participation in any proceedings before the court.

**31.19(4) Supervision and limitations.**

*a. Supervision by attorney.* An emeritus attorney must perform all activities authorized by this chapter under the general supervision of the approved legal aid organization.

*b. Representation of status.* Attorneys permitted to perform services under this chapter may only hold themselves out as emeritus attorneys.

*c. Payment of expenses and award of fees.* The prohibition against compensation for the emeritus attorney contained in rule 31.19(2)(a)(4) shall not prevent the approved legal aid organization from reimbursing the emeritus attorney for actual expenses incurred while rendering services under this chapter or from paying continuing legal education attendance fees on behalf of the emeritus attorneys, nor shall it prevent the approved legal aid organization from making such charges for its services as it may otherwise properly charge. The approved legal aid organization shall be entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.

**31.19(5) Certification.** Permission for an emeritus attorney to perform services under this chapter shall become effective upon filing with and approval by the Office of Professional Regulation of:

*a.* A certification from an approved legal aid organization stating that the emeritus attorney is currently associated with that legal aid organization and that all activities of the emeritus attorney will be under the general supervision of the legal aid organization;

*b.* A certificate from the highest court or agency in the state, territory, or district in which the emeritus attorney previously has been licensed to practice law, certifying that the emeritus attorney is in good standing, does not have a pending disciplinary proceeding, and has never been disbarred or had the license to practice law revoked; and

*c.* A sworn statement from the emeritus attorney that the emeritus attorney:

(1) Relinquishes status as an inactive, active, or retired lawyer and requests placement in emeritus status for purposes of the Client Security Commission and Commission on Continuing Legal Education;

(2) Understands and will abide by the provisions of the Iowa Rules of Professional Conduct;

(3) Submits to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes; and

(4) Will neither request nor accept compensation of any kind for the legal services authorized under this chapter.

**31.19(6) Withdrawal of certification.**

*a. Withdrawal of permission to perform services.* Permission to perform services under this chapter shall cease immediately upon the filing with the office of professional regulation of a notice either:

(1) From the approved legal aid organization stating that the emeritus attorney has ceased to be associated with the organization, which notice must be filed within 30 days after such association has ceased; or

(2) From the Iowa Supreme Court, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice shall be mailed by the office of professional regulation to the emeritus attorney involved and to the approved legal aid organization.

*b. Notice of withdrawal.* If an emeritus attorney's certification is withdrawn for any reason, the approved legal aid organization shall immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the emeritus attorney was involved.

**31.19(7) Discipline.** In addition to any appropriate proceedings and discipline that may be imposed upon the emeritus attorney by the Iowa Supreme Court under the court's disciplinary rules, the Iowa Rules of Professional Conduct, or the Code of Iowa, the Iowa Supreme Court may, at any time, with or without cause, withdraw certification under this rule.

**31.19(8) Fees and annual statements.**

*a. Annual report to Client Security Commission.* A lawyer certified under this rule shall file the annual questionnaire required by Iowa Ct. R. 39.11 and the annual statement required by Iowa Ct. R. 39.8(1), but shall be exempt from the annual disciplinary fee and fund assessment provided in Iowa Ct. Rs. 39.5 and 39.6.

*b. Annual Report to Commission on Continuing Legal Education.* A lawyer certified under this rule shall fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in Iowa Ct. Rs. 41.3 and 41.4. However, a lawyer shall not be required to comply with the continuing legal education requirements set forth in Iowa Ct. R. 41.3 for the calendar year in which the lawyer is first certified under this rule. The approved legal aid organization may pay the continuing legal education reporting fee on behalf of the emeritus attorney.

[Court Order March 1, 2013]

**Rules 31.20 to 31.24** Reserved.

**Rule 31.25 Forms.**

**Rule 31.25 — Form 1: *Application for Admission Pro Hac Vice — District Court***

IN THE IOWA DISTRICT COURT OF \_\_\_\_\_ COUNTY

_____, Plaintiff(s), vs. _____, Defendant(s).	Case No. _____  <b>APPLICATION FOR ADMISSION PRO          HAC VICE</b>  <b>(Iowa Court Rule 31.14)</b>
---	--

The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding.

Applicant shall complete all of the following:

If this matter involves review of an agency action did the applicant seek admission pro hac vice in the proceedings below?

Yes  No

If yes, attach copies of all related documents.

a. Applicant’s full name, residential address, and business address.

\_\_\_\_\_  
\_\_\_\_\_

b. The name, address, and phone number of each client sought to be represented.

\_\_\_\_\_  
\_\_\_\_\_

c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Has the applicant ever been denied admission pro hac vice in this state?

Yes  No

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

e. Has the applicant ever had admission pro hac vice revoked in this state?

Yes  No

If yes, on a separate page specify the caption of the proceedings, the date of the revocation, and what findings were made. Attach copies of all related documents.

f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination?

Yes  No

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

g. Has the applicant ever been formally disciplined or sanctioned by any court in this state?

Yes  No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

h. Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere?  
Yes  No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

i. Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years?  
Yes  No

If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.

j. Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction?  
Yes  No

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.

k. Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders?  
Yes  No

If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral rulings and other related documents.

l. Has the applicant filed an application to appear pro hac vice in this state within the preceding two years?  
Yes  No

If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.

m. I acknowledge my familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which I seek to practice.  
Yes  No

n. List the name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

\_\_\_\_\_  
\_\_\_\_\_

o. I acknowledge that service upon the in-state lawyer in all matters connected with the proceedings will have the same effect as if personally made upon me.  
Yes  No

p. If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant shall, on a separate page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.

q. On a separate page the applicant shall provide any other information the applicant deems necessary to support the application for admission pro hac vice.

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of applicant

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this application was served on the following parties (list names and addresses below) on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ by \_\_\_\_\_ personal delivery \_\_\_\_\_ deposit in the U.S. mail.

\_\_\_\_\_  
Signature of person making service

**Rule 31.25 — Form 2: *Application for Admission Pro Hac Vice — Supreme Court***

IN THE IOWA SUPREME COURT

<p>_____, Plaintiff(s), vs. _____, Defendant(s).</p>	<p>Case No. _____</p> <p><b>APPLICATION FOR ADMISSION PRO HAC VICE</b></p> <p><b>(Iowa Court Rule 31.14)</b></p>
--	--

The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding.

Applicant shall complete all of the following:

Did the applicant seek admission pro hac vice in the proceedings below?

Yes  No

If yes, attach copies of all related documents.

a. Applicant's full name, residential address, and business address.

\_\_\_\_\_  
\_\_\_\_\_

b. The name, address, and phone number of each client sought to be represented.

\_\_\_\_\_  
\_\_\_\_\_

c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

\_\_\_\_\_  
\_\_\_\_\_

d. Has the applicant ever been denied admission pro hac vice in this state?

Yes  No

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

e. Has the applicant ever had admission pro hac vice revoked in this state?

Yes  No

If yes, on a separate page specify the caption of the proceedings, the date of the revocation, and what findings were made. Attach copies of all related documents.

f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination?

Yes  No

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

g. Has the applicant ever been formally disciplined or sanctioned by any court in this state?

Yes  No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

*h.* Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere?  
Yes  No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

*i.* Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years?  
Yes  No

If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.

*j.* Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction?  
Yes  No

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.

*k.* Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders?  
Yes  No

If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral rulings and other related documents.

*l.* Has the applicant filed an application to appear pro hac vice in this state within the preceding two years?  
Yes  No

If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.

*m.* I acknowledge my familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which I seek to practice.  
Yes  No

*n.* List the name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

\_\_\_\_\_  
\_\_\_\_\_

*o.* I acknowledge that service upon the in-state lawyer in all matters connected with the proceedings will have the same effect as if personally made upon me.  
Yes  No

*p.* If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant shall, on a separate page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.

*q.* On a separate page the applicant shall provide any other information the applicant deems necessary to support the application for admission pro hac vice.

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of applicant

**CERTIFICATE OF SERVICE**

The undersigned certifies a copy of this application was served on the following parties (list names and addresses below) on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_ personal delivery  
\_\_\_\_\_ deposit in the U.S. mail.

\_\_\_\_\_  
Signature of person making service

**Rule 31.25 — Form 3: *Registration statement for lawyer engaging in temporary practice following determination of major disaster***

IN THE IOWA SUPREME COURT

**REGISTRATION STATEMENT FOR LAWYER  
ENGAGING IN TEMPORARY PRACTICE  
FOLLOWING DETERMINATION OF MAJOR  
DISASTER**

**IOWA COURT RULE 31.17**

Pursuant to Iowa Court Rule 31.17(6) the undersigned shall complete the following:

**1. Name**

Lawyer's full name.

---

Name of lawyer's firm.

---

**2. Home State Information**

Residential address in lawyer's home state.

---

---

Business address in lawyer's home state.

---

---

Telephone number(s) in lawyer's home state.

---

---

E-mail address.

---

---

**3. Iowa Information**

Residential address in Iowa.

---

---

Business address in Iowa.

---

---

Telephone number(s) in Iowa.

---

---

E-mail address.

---

**4. Bar Admission**

List the courts before which you have been admitted to practice, the respective periods of admission, and your registration or bar numbers.

---

---

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Is your license to practice currently subject to disbarment, suspension, or restrictions in any jurisdiction?

Yes  No

If yes, on a separate page specify the proceedings and attach copies of all related documents.

**5. Temporary Practice Following Determination of Major Disaster**

*(Check all that apply)*

Specify whether you will engage in temporary practice pursuant to:

- Iowa Court Rule 31.17(2) (pro bono legal services).
- Iowa Court Rule 31.17(3) (legal services reasonably related to lawyer’s practice of law in the other jurisdiction, or area of such other jurisdiction, where the disaster occurred).

I agree that I am subject to the disciplinary procedures and authority of this court and the Iowa Rules of Professional Conduct, the Standards for Professional Conduct, and any applicable local rules and procedures.

Yes  No

**ATTORNEY CERTIFICATION**

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that I am licensed and in good standing and authorized to practice law in each jurisdiction listed above and my license is not subject to suspension or restriction in any jurisdiction.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Lawyer

[Court Order May 14, 2007]



**CHAPTER 35**  
**ATTORNEY DISCIPLINE, DISABILITY, AND REINSTATEMENT**

Rule 35.1	Grievance Commission of the Supreme Court of Iowa
Rule 35.2	Iowa Supreme Court Attorney Disciplinary Board
Rule 35.3	Reprimand
Rule 35.4	Interim suspension for threat of harm
Rule 35.5	Complaints
Rule 35.6	Discovery
Rule 35.7	Hearing
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Rule 35.10	Decision
Rule 35.11	Supreme court disposition
Rule 35.12	Appeal
Rule 35.13	Suspension
Rule 35.14	Procedure on application for reinstatement
Rule 35.15	Conviction of a crime
Rule 35.16	Suspension or disbarment on consent
Rule 35.17	Disability suspension
Rule 35.18	Death or suspension of practicing attorney
Rule 35.19	Reciprocal discipline
Rule 35.20	Suspension of attorney's license for failure to comply with a support order
Rule 35.21	Suspension of attorney's license for failure to comply with an obligation owed to or collected by the College Student Aid Commission
Rule 35.22	Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue
Rule 35.23	Notification of clients and counsel
Rule 35.24	Immunity
Rule 35.25	Reports
Rule 35.26	Effective dates
Rule 35.27	Costs
Rule 35.28	Rules
Rule 35.29	Retention of records



## **CHAPTER 35**

### **ATTORNEY DISCIPLINE, DISABILITY, AND REINSTATEMENT**

#### **Rule 35.1 Grievance Commission of the Supreme Court of Iowa.**

**35.1(1)** There is hereby created the Grievance Commission of the Supreme Court of Iowa consisting of 25 lawyers from judicial election district 5C, 15 lawyers from judicial election district 5A, 10 lawyers from judicial election district 6, and 5 lawyers from each other judicial election district, to be appointed by the supreme court. The court shall designate one of them, annually, as chair of the commission. The supreme court shall accept nominations for appointment to the commission from any association of lawyers which maintains an office within the state of Iowa or any attorney licensed in Iowa. The grievance commission shall also consist of no fewer than 5 nor more than 35 laypersons appointed by the court. Members shall serve no more than two three-year terms, and no member who has served two full terms shall be eligible for reappointment. A member serving as a primary or alternate member of a division of the commission at the time the member's regular term ends shall, nonetheless, continue to serve on that division until the division has concluded its duties with respect to the complaint for which the division was appointed.

**35.1(2)** The grievance commission shall have an administrative committee consisting of the chair, the director of the office of professional regulation, and a nonlawyer commission member appointed by the court. The administrative committee shall, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the commission's operations for the upcoming fiscal year. The grievance commission, or a duly appointed division thereof, shall hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct, the laws of the United States, and the laws of the state of Iowa or any other state or territory within their respective jurisdictions by lawyers who are members of the bar of the supreme court. The grievance commission, or a duly appointed division thereof, also shall hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct by lawyers practicing law in Iowa who are not members of the bar of the supreme court. The grievance commission shall have such other powers and duties as are provided in these rules.

**35.1(3)** A member appointed to the grievance commission shall not represent, in any stage of the investigative or disciplinary proceedings, any lawyer against whom an ethical complaint has been filed. A member of the grievance commission may represent a lawyer in a malpractice, criminal, or other matter; however, the member must decline representation of the lawyer in any stage of the investigative or disciplinary proceedings and must not participate in any hearing or other proceeding before the commission. These prohibitions extend to lawyers associated in a firm with a member of the commission with respect to those cases in which the member participates or has participated as a member of a division or as an alternate.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 30, 1981; June 24, 1983; December 15, 1994, effective January 3, 1995; July 26, 1995; April 1, 1999; November 9, 2001, effective February 15, 2002; June 28, 2004, effective May 1, 2004; April 20, 2005, effective July 1, 2005; August 6, 2007; December 5, 2007; August 10, 2009; August 24, 2012]

#### **Rule 35.2 Iowa Supreme Court Attorney Disciplinary Board.**

**35.2(1)** There is hereby created the Iowa Supreme Court Attorney Disciplinary Board. The board shall consist of nine lawyers and three laypersons appointed by the supreme court. The supreme court shall designate one of the lawyers, annually, as chair. The supreme court shall accept nominations for appointment to the board from any association of lawyers which maintains an office within the state of Iowa or any attorney licensed in Iowa. Members shall serve no more than two three-year terms, and no member who has served two full terms shall be eligible for reappointment. The board members are appointed commissioners of the supreme court to initiate or receive, and process complaints against any attorney licensed to practice law in this state for alleged violations of the Iowa Rules of Professional Conduct and laws of the United States or the state of Iowa. Similarly, the members may initiate or receive, and process complaints against any attorney who is not licensed to practice law in this state, but who engages in the practice of law in Iowa, for alleged violations of the Iowa Rules of Professional Conduct. Upon completion of any such investigation, the board shall either dismiss the complaint, admonish or reprimand the attorney, or file and prosecute the complaint before the grievance commission or any division thereof. Complaints involving attorneys who are not authorized

to practice law in Iowa may additionally be referred to the commission on the unauthorized practice of law.

**35.2(2)** A member appointed to the board shall not represent, in any stage of the investigative or disciplinary proceedings, any lawyer against whom an ethical complaint has been filed. To avoid even the appearance of impropriety, a member of the board should not represent any lawyer in any malpractice, criminal, or other matter when it appears that the filing of an ethical complaint against that lawyer is reasonably likely. These prohibitions extend to lawyers associated in a firm with a member of the board.

**35.2(3)** The assistant director for attorney discipline of the office of professional regulation shall serve as the principal executive officer of the board. Wherever in this chapter a reference to the “assistant director” appears, it shall refer to the assistant director for attorney discipline of the office of professional regulation. The assistant director shall be responsible to the board, to the director of the office of professional regulation, and to the supreme court for proper administration of these rules. Subject to the approval of the supreme court, the board shall employ such other persons as it deems necessary for the proper administration of this chapter. The assistant director and other employees of the board shall receive such compensation and expenses as the supreme court shall fix upon recommendation of the director of the office of professional regulation.

**35.2(4)** The board shall have an executive committee consisting of the chair, the assistant director, and one nonlawyer member of the board appointed by the court. The executive committee of the board shall, at least 60 days prior to the start of each fiscal year, submit to the court for its consideration and approval a budget covering the operations of the board for the upcoming fiscal year. This budget shall include proposed expenditures for staff, support staff, office space, equipment, supplies and other items necessary to administer the responsibilities of the board as set out in these rules. Approval of the budget by the court shall authorize payment as provided in the budget. A separate bank account designated as the ethics operating account of the disciplinary fund shall be maintained for payment of authorized expenditures as provided in the approved budget. Moneys derived from the annual disciplinary fee set out in Iowa Ct. R. 39.5 shall be deposited in the ethics operating account to the extent authorized each year by the supreme court, for payment of the board’s authorized expenditures. [Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 30, 1981; October 20, 1982; February 9, 1983; January 22, 1986, effective February 3, 1986; December 15, 1994, effective January 3, 1995; April 1, 1999; November 9, 2001, effective February 15, 2002; June 28, 2004, effective May 1, 2004; April 20, 2005, and June 30, 2005, effective July 1, 2005; December 5, 2007]

**Rule 35.3 Reprimand.** In the event an attorney is reprimanded by the board, a copy of the reprimand shall be filed with the clerk of the grievance commission who shall cause a copy of the reprimand to be served on the attorney by personal service in the manner of an original notice in civil suits or by restricted certified mail, with a notice attached stating that the attorney has 30 days from the date of completed service to file exceptions to the reprimand with the clerk of the grievance commission. Service shall be deemed complete on the date of personal service or the date shown by the postal receipt of delivery of the notice to the attorney. If the attorney fails to file an exception, such failure shall constitute a waiver of any further proceedings and a consent that the reprimand be final and public. In that event, the clerk of the grievance commission shall cause a copy of the reprimand to be forwarded to the clerk of the supreme court, together with proof of service of the reprimand upon the attorney and a statement that no exceptions were filed within the time prescribed. The supreme court shall then include the reprimand in the records of the court as a public document unless the court remands the matter to the board for consideration of another disposition. In the event, however, the attorney concerned files a timely exception to the reprimand, no report of the reprimand shall be made to the clerk of the supreme court and the reprimand shall be stricken from the records. The board may proceed further by filing a complaint against such attorney before the grievance commission. When an exception to a reprimand has been filed, such reprimand shall not be admissible in evidence in any hearing before the grievance commission.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; June 15, 1983; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.4 Interim suspension for threat of harm.**

**35.4(1)** Upon receipt of evidence demonstrating probable cause that a lawyer subject to the disciplinary jurisdiction of the supreme court has committed a violation of the Iowa Rules of Professional Conduct that poses a substantial threat of serious harm to the public, the board shall do all of the following:

*a.* Transmit the evidence along with a verified petition for interim suspension pending formal disciplinary proceedings to the court. The petition shall state with particularity the disciplinary rules alleged to have been violated by the lawyer and the exact nature of the threat of serious harm to the public.

*b.* Promptly notify the lawyer by any reasonable means that a petition has been filed, followed by service of the petition.

**35.4(2)** Upon receipt of the petition and evidence, the court shall determine whether the board has established, by a convincing preponderance of the evidence, that a disciplinary violation posing a substantial threat of serious harm to the public exists. If such a disciplinary violation is established, the court may enter an order immediately suspending the lawyer pending final disposition of a disciplinary proceeding predicated upon such conduct or may order such other action as it deems appropriate. The order may provide that any further proceedings based on the lawyer's conduct be expedited. If a suspension order is entered, the court may direct the chief judge of the judicial district in which the lawyer practiced to appoint a trustee under rule 35.17.

**35.4(3)** A lawyer suspended pursuant to this rule may file a petition to dissolve or modify the interim suspension order. The lawyer must serve the petition on the board's counsel and the chief judge of the judicial district in which the lawyer practiced. The court shall promptly schedule the matter for hearing before one or more justices. The hearing shall be set for a date no sooner than seven days after the petition is filed unless both parties and the court agree to an earlier date. At the hearing, the lawyer shall bear the burden of demonstrating that the suspension order should be dissolved or modified.

[Court Order April 9, 2003; April 20, 2005, effective July 1, 2005]

**Rule 35.5 Complaints.** Every complaint filed against an attorney with the grievance commission shall be signed and sworn to by the chair of the board and served upon the attorney concerned as provided by the rules of the grievance commission. Such complaints shall be sufficiently clear and specific in their charges to reasonably inform the attorney against whom the complaint is made of the misconduct alleged to have been committed. All complaints, motions, pleadings, records, reports, exhibits, evidence and other documents or things filed under this chapter or received in evidence in a hearing before the grievance commission shall be filed with and preserved by the clerk of the grievance commission in Des Moines, Iowa, and shall at all times be available to the supreme court or anyone designated by the court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.6 Discovery.** In any disciplinary proceeding or action taken by the board, discovery shall be permitted as provided in Iowa Rs. Civ. P. 1.501 to 1.517, 1.701, 1.702, and 1.714 to 1.717. The attorney against whom a complaint has been filed, in addition to the restriction stated in Iowa R. Civ. P. 1.503(1), shall not be required to answer an interrogatory pursuant to Iowa R. Civ. P. 1.509, a request for admission pursuant to Iowa R. Civ. P. 1.510, a question upon oral examination pursuant to Iowa R. Civ. P. 1.701, or a question upon written interrogatories pursuant to Iowa R. Civ. P. 1.710, if the answer would be self-incriminatory. In addition thereto, evidence and testimony may be perpetuated as provided in Iowa Rs. Civ. P. 1.721 to 1.728. If either party is to utilize discovery, it must be commenced within 30 days after service of the complaint. The commission may permit amendments to the complaint to conform to the proof or to raise new matters as long as the respondent has notice thereof and a reasonable time to prepare a defense thereto prior to the date set for hearing. The grievance commission, or any division thereof, shall receive an application and may enter an order to enforce discovery or to perpetuate any evidence. Discovery pursuant to this rule includes an attorney's right to obtain a copy of the board's file pursuant to the provisions of Iowa Ct. R. 34.4(2). [Court Order June 10, 1964; October 8, 1970; November 8, 1974; March 15, 1983; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.7 Hearing.**

**35.7(1)** Upon the expiration of 30 days from the date of service of the complaint, the grievance commission shall immediately set the matter for hearing and notify the parties by restricted certified mail or personal service. Such notice shall be provided at least ten days prior to the scheduled hearing date.

After the complaint is served and a division of the grievance commission is appointed to hear the matter, the clerk of the grievance commission shall arrange a telephone conference with members of the division and the parties to schedule the hearing. Notice of the hearing shall be provided at least ten days prior to the scheduled hearing. If a party does not participate in the scheduling conference, notice of the hearing shall be by restricted certified mail or personal service.

The hearing shall be held not less than 60 days nor more than 90 days after the service of the complaint. The commission may grant reasonable continuances upon written application supported by affidavit. Proceedings, hearings, and papers filed before the grievance commission or any division thereof shall be confidential, subject to disclosure under Iowa Ct. R. 36.18.

**35.7(2)** In the event an attorney previously has been publicly reprimanded or an attorney's license has been suspended or revoked or the attorney has been disbarred, a certified copy of said action shall be admitted into evidence at any hearing involving disciplinary proceedings without the necessity of a bifurcated hearing. The grievance commission and the supreme court shall consider this evidence along with all other evidence in the case in determining the attorney's fitness to practice law in the state of Iowa.

**35.7(3)** Principles of issue preclusion may be used by either party in a lawyer disciplinary case if all of the following conditions exist:

*a.* The issue has been resolved in a civil proceeding that resulted in a final judgment, or in a criminal proceeding that resulted in a finding of guilt, even if the Iowa Supreme Court Attorney Disciplinary Board was not a party to the prior proceeding.

*b.* The burden of proof in the prior proceeding was greater than a mere preponderance of the evidence.

*c.* The party seeking preclusive effect has given written notice to the opposing party, not less than ten days prior to the hearing, of the party's intention to invoke issue preclusion.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 30, 1981; August 27, 1982; September 27, 1984, effective October 10, 1984; October 25, 1993, effective January 3, 1994; December 15, 1994, effective January 3, 1995; May 23, 2001; November 9, 2001, effective February 15, 2002; December 17, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.8 Subpoenas.** The commission shall have subpoena power on behalf of the board and the attorney against whom a complaint has been filed to compel the appearance of persons or the production of documents during discovery and the final hearing. Any attack on the validity of a subpoena shall be heard or determined by the chair of the commission, the president, or any member of a division to which a complaint has been referred. Any resulting order is not appealable prior to entry of the final ruling, report, or recommendation of the commission. Disobedience of the commission's subpoena shall be punishable as contempt in the district court for the county where the hearing is to be held. A contempt proceeding will not be a matter of public record. The clerk of the grievance commission must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it for service. An attorney licensed or otherwise authorized to practice law in Iowa also may issue and sign a subpoena as an officer of the court. Any member of the grievance commission is hereby empowered to administer oaths or affirmations to all witnesses and shall cause such testimony to be officially reported by a court reporter.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 20, 2012]

**Rule 35.9 Stipulated submissions.** The parties may stipulate and agree to waive formal hearing and submit the complaint to the commission for its decision on the basis of a written stipulation approved by the parties and filed with the clerk of the commission. The commission may consider the complaint on the basis of the stipulation, or refuse to accept the stipulation and proceed with a formal hearing, or accept the stipulation but conduct a limited hearing to elicit such additional evidence as the commission may deem necessary to facilitate informed consideration of the complaint. A stipulation under this rule must be submitted not less than 15 days before the date set for hearing. A stipulation submitted pursuant to this rule may include a statement regarding the proposed discipline, including

additional or alternative sanctions as provided in rule 35.10. The commission must consider the statement of proposed discipline, but is not limited by the statement and may recommend greater or lesser discipline, including additional or alternative sanctions. A stipulation submitted pursuant to this rule must include:

1. A statement of the relevant facts;
2. A separate statement of conclusions of law as to the stipulated violations;
3. A separate description of mitigating and aggravating circumstances;
4. A stipulation as to all exhibits; and
5. A waiver of the formal hearing, the parties' agreement to submit the matter on the basis of the stipulation, and an agreement to closure of the record unless the commission directs further proceedings.

[Court Order February 20, 2012]

**Rule 35.10 Decision.** At the conclusion of a hearing upon any complaint against an attorney, the grievance commission may permit a reasonable time for the parties to file post-hearing briefs and arguments. The commission shall dismiss the complaint, issue a private admonition, or recommend to the supreme court that the attorney be reprimanded or the attorney's license to practice law be suspended or revoked. If the grievance commission recommends a reprimand or suspension or revocation of the attorney's license, it shall file with the supreme court its written findings of fact, conclusions of law, and recommendations. As part of its report, the commission may recommend additional or alternative sanctions such as restitution, costs, practice limitations, appointment of a trustee or receiver, passage of a bar examination or the Multistate Professional Responsibility Examination, attendance at continuing legal education courses, or other measures consistent with the purposes of attorney discipline.

A copy of the commission's report shall be filed with the Client Security Commission. The disposition or report of the grievance commission shall be made or filed with the supreme court within 60 days of the date set for the filing of the last responsive brief and argument. If the commission cannot reasonably make its determination or file its report within such time limit, the division president may file a request for an extension of time with the clerk of the commission prior to the expiration of the applicable 60-day period. The clerk shall serve a copy of the request on the chair of the commission and the parties. The chair of the commission shall file a written decision on the extension request with the clerk, who shall serve a copy on all parties. If the division fails to file its decision or a request for an extension of time within 60 days of the date set for the filing of the last responsive brief and argument, the clerk shall promptly notify the director of the office of professional regulation of the failure. Any determination or report of the commission need only be concurred in by a majority of the commissioners sitting. Any commissioner has the right to file with the supreme court a dissent from the majority determination or report. Such matter shall then stand for final disposition in the supreme court. If the grievance commission dismisses the complaint or issues a private admonition, no report shall be made to the supreme court, except as provided in rule 35.25; however, the grievance commission shall, within 10 days of its determination, serve a copy of its determination or report on the complainant and the attorney concerned as provided in chapter 36 of the Iowa Court Rules. If no appeal is applied for by the complainant within 10 days after such service, the grievance commission's determination shall be final. Any report of reprimand or recommendations for license suspension or revocation shall be a public document upon its filing with the clerk of the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 17, 1984; September 26, 1984, effective October 10, 1984; October 25, 1985, effective November 1, 1985; March 9, 1994, effective April 1, 1994; November 9, 2001, effective February 15, 2002; August 28, 2003; April 20, 2005, and July 1, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012]

**Rule 35.11 Supreme court disposition.**

**35.11(1)** Any report filed by the grievance commission with the supreme court shall be served upon the complainant and the attorney concerned as provided by chapter 36 of the Iowa Court Rules. Such report shall be entitled in the name of the complainant versus the accused attorney as the respondent. Within 14 days after a report is filed with the clerk of the supreme court, the clerk of the grievance commission shall transmit to the clerk of the supreme court the entire record made before the commission. If no appeal is taken or application for permission to appeal is filed within the 10-day period provided in rule 35.12, the supreme court shall set a date for submission of the

commission report. The supreme court shall notify the parties that they may file written statements with the supreme court in support of or in opposition to the discipline the grievance commission recommended. Statements in support of or opposition to the recommended discipline shall be served and filed no later than seven days before the date set for submission. Upon submission, the supreme court shall proceed to review de novo the record made before the commission and determine the matter without oral argument or further notice to the parties. Upon such review de novo the supreme court may impose a lesser or greater sanction than the discipline recommended by the grievance commission.

**35.11(2)** The supreme court may revoke or suspend the license of an attorney admitted to practice in Iowa upon any of the following grounds: conviction of a felony, conviction of a misdemeanor involving moral turpitude, violation of any provision of the Iowa Rules of Professional Conduct, or any cause now or hereafter provided by statute or these rules.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; January 15, 1975; July 18, 1983; July 1, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012]

#### **Rule 35.12 Appeal.**

**35.12(1)** The respondent may appeal from the report or recommendation filed by the grievance commission pursuant to rule 35.10 to the supreme court. The respondent's notice of appeal must be filed with the clerk of the grievance commission within ten days after service of the report or recommendation on the respondent. The respondent shall serve a copy of the notice of appeal on the complainant or its counsel pursuant to Iowa R. App. P. 6.701. Promptly after filing the notice of appeal with the clerk of the grievance commission, the respondent shall mail or deliver a copy of the notice to the clerk of the supreme court.

**35.12(2)** The complainant may apply to the supreme court for permission to appeal from a determination, ruling, report, or recommendation of the grievance commission. The application shall be filed within ten days after service of the determination, ruling, report, or recommendation on the complainant. The supreme court may grant such appeal in a manner similar to the granting of interlocutory appeals in civil cases under the Iowa Rules of Appellate Procedure. The filing fee and the docket fee shall be waived upon the complainant's written request.

**35.12(3)** An appeal of the grievance commission's dismissal of a complaint or of the grievance commission's decision to issue a private admonition shall remain confidential. In making such application, and in any subsequent briefs, the complainant shall refer to the respondent as "Attorney Doe No. (insert grievance commission number)," instead of using the respondent's name. All references to the respondent during oral arguments shall be to "Attorney Doe." In the event the supreme court reverses or modifies the report of the grievance commission, such court order of reversal or modification shall become a public record.

**35.12(4)** After a notice of appeal is filed or permission to appeal is granted, the appeal shall proceed pursuant to the Iowa Rules of Appellate Procedure to the full extent those rules are not inconsistent with this rule. Within seven days of the filing of the notice of appeal or the filing of the order granting permission to appeal, appellant shall pay the filing fee pursuant to Iowa R. App. P. 6.702 and shall file the combined certificate Iowa R. App. P. 6.804 requires. The matter shall be captioned under the title given to the action before the grievance commission with the appellant identified as such pursuant to Iowa R. App. P. 6.109(2) unless otherwise required by rule 35.12(3). The abbreviated time limits specified in Iowa R. App. P. 6.902 shall apply. Extensions of time shall not be granted except upon a verified showing of the most unusual and compelling circumstances. Review shall be de novo. If a respondent's appeal is dismissed for lack of prosecution pursuant to Iowa R. App. P. 6.1202 or for any other reason, the supreme court shall proceed to review and decide the matter pursuant to rule 35.11 as if no appeal had been taken.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 18, 1983; August 14 and 24, 1987, effective September 1, 1987; March 9, 1994, effective April 1, 1994; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 27, 2008; June 5, 2008, effective July 1, 2008; February 20, 2012]

#### **Rule 35.13 Suspension.**

**35.13(1)** In the event the supreme court suspends an attorney's license to practice law, such suspension shall continue for the minimum time specified in such order and until the supreme court has approved the attorney's written application for reinstatement. In the order of suspension or by

order at any time before reinstatement, the supreme court may require the suspended attorney to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

**35.13(2)** An attorney whose license has been suspended for a period not exceeding 60 days shall not be required to file an application for reinstatement, and the court shall order reinstatement of the attorney's license on the day after the suspension period has expired, subject to the following exceptions. The Iowa Supreme Court Attorney Disciplinary Board may file and serve within the suspension period an objection to the automatic reinstatement of the attorney. The filing of an objection shall stay the automatic reinstatement until ordered otherwise by the court. If the board files an objection, the court shall set the matter for hearing and the clerk shall enter written notice in conformance with rule 35.14, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date. Automatic reinstatement shall not be ordered until all costs assessed under rule 35.27 have been paid.

**35.13(3)** Any attorney suspended shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**35.13(4)** Nothing in this rule shall preclude an attorney, law firm, or professional association from employing a suspended attorney to perform such services only as may be ethically performed by laypersons employed in attorneys' offices, under all of the following conditions:

*a.* Notice of employment, together with a full job description, shall be provided to the board before employment commences.

*b.* Informational reports, verified by the employer and employee, shall be submitted quarterly to the board. Such reports shall contain a certification that no aspect of the employee's work has involved the unauthorized practice of law.

*c.* A suspended attorney shall not have direct or personal association with any client and shall not disburse or otherwise handle funds or property of a client.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 21, 1977; April 25, 1985; October 25, 1985, effective November 1, 1985; December 15, 1994, effective January 3, 1995; April 2, 2001; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 20, 2012]

**Rule 35.14 Procedure on application for reinstatement.** Any person whose certificate to practice law in this state was suspended may apply for reinstatement subject to the following rules:

**35.14(1) Application.**

*a.* A proceeding for reinstatement to the practice of law in Iowa must be commenced by a written application to the supreme court filed with the clerk of the supreme court not more than 60 days prior to expiration of the suspension period.

*b.* The application must state the date of the applicant's original admission, the date and duration of suspension, and that the applicant has complied in all respects with the orders and judgment of the supreme court relating to the suspension.

*c.* The application must be verified by the oath of the applicant as to the truth of the statements made in the application.

*d.* The applicant must also submit to the supreme court satisfactory proof that the applicant, at the time of the application, is of good moral character and in all respects worthy of the right to practice law. The application must be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the suspension, the applicant must also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of suspension. The required recommendations may not be from judges or magistrates.

*e.* The applicant must also submit satisfactory proof that the applicant, at the time of the application, has filed all reports, paid all fees, and completed all continuing legal education required by the provisions of chapters 39, 41, and 42 of the Iowa Court Rules.

*f.* The applicant must submit satisfactory proof that the Client Security Trust Fund has been repaid in full, or that the Client Security Commission has approved a repayment plan, for all client security conduct.

**35.14(2) Procedure.** Upon filing of such application and recommendations with the clerk of the supreme court, the clerk must give written notice to the persons listed below. Such notice must contain the date of the suspension, the date of filing the application, and the date of the hearing set by the supreme court, which will be at least 60 days after the filing of such application for reinstatement.

- a. The attorney general.
- b. The county attorney where the applicant resides.
- c. The county attorney where the applicant resided at the time of suspension.
- d. The chair of the Iowa Board of Law Examiners.
- e. The assistant director for attorney discipline of the office of professional regulation.
- f. Each judge of the district in which the applicant resided at the time of suspension.
- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided when the certificate was suspended.
- i. The president of The Iowa State Bar Association.

**35.14(3) Written statements.** Such persons, after receipt of the notice and before the date fixed for hearing, may submit to the clerk of the supreme court written statements of fact and comments regarding the current fitness of the applicant to practice law.

**35.14(4) Notices of witnesses and exhibits.** At least 14 days prior to the scheduled hearing date, the applicant and the Iowa Supreme Court Attorney Disciplinary Board must provide notice to the court and the opposing party of the names and expected testimony of any witnesses they intend to produce and must file and serve copies of any exhibits they intend to introduce at the hearing. The opposing party may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The court may waive these deadlines only upon good cause shown.

**35.14(5) Hearing.** The reinstatement hearing will be held at the time and place designated by the court. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of suspension. The hearing will be public unless the court orders otherwise upon motion of a party. The hearing will be informal and the strict rules of evidence will not apply. The court may impose reasonable time limits on the length of the hearing.

**35.14(6) Decision.** The court will render its decision as soon as practicable after the hearing. The supreme court may require the person to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

**35.14(7) Reinstatement after revocation.** In the event the supreme court revokes an attorney's license to practice law, the attorney is not eligible to apply for reinstatement until at least five years after the date of revocation. For purposes of this reinstatement rule, "revoked attorney" includes an attorney whose license to practice law has been revoked or an attorney who has been disbarred. Similarly, "revocation" includes "disbarment" and "revoked" includes "disbarred."

**35.14(8) Pre-filing requirements.** Prior to filing the application, the attorney must:

- a. File the attorney's character and fitness application with the National Conference of Bar Examiners (NCBE) and pay the NCBE's application fee; and
- b. Pay an administrative fee of \$525 to the Iowa Board of Law Examiners.

**35.14(9) Filing and contents of application.** An application for reinstatement by a revoked attorney must:

- a. Be filed with the clerk of the supreme court and be served on the Iowa Board of Law Examiners.
- b. State the date of the applicant's original admission and the date of revocation, and recite that the applicant has complied in all respects with rule 35.23 and any orders and judgment of the supreme court relating to the revocation.
- c. Include satisfactory proof that the applicant, at the time of the application, is of good moral character and is in all respects worthy of readmission to the bar. The applicant must provide a detailed affidavit describing the applicant's personal, educational, and work history since the date of revocation. The application must be accompanied by the recommendation of at least three attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the revocation, the applicant must also file a recommendation from three attorneys currently practicing law in the district where the applicant resided at the time of revocation. The required recommendations may not be from judges or magistrates.

d. Include satisfactory proof that the applicant, at the time of the application, has paid all fees required by the provisions of chapters 39, 41, and 42 of the Iowa Court Rules.

e. Include satisfactory proof that the Client Security Trust Fund has been repaid in full, or that the Client Security Commission has approved a repayment plan, for all client security claim payments paid from the Client Security Trust Fund under rule 39.9 based on the applicant's conduct.

f. Include satisfactory proof that the applicant, at the time of the application, has paid all costs assessed against the applicant under rule 35.27.

**35.14(10) Iowa Board of Law Examiners' report.** After the application for reinstatement is filed with the clerk of the supreme court, the board will file a report and recommendation with the supreme court regarding the applicant's character and fitness.

**35.14(11) Supreme court actions on application.** Upon review of the application for reinstatement from a revoked attorney, the court may summarily deny the application, request further information, or set a hearing date and direct the clerk to give the notice provided under rule 35.14(12). The court may appoint a special master or a hearing panel to conduct the hearing. The hearing date must in no case be less than 60 days after the filing of the application for reinstatement. Any order denying reinstatement may state whether the attorney is allowed to file a future application and, if so, the minimum amount of time before the application can be filed.

**35.14(12) Procedure.** Upon direction of the supreme court, the clerk must give written notice of the revoked attorney's application for reinstatement to the persons listed below. Such notice must contain the date of the revocation, the date of filing the application, and the date of the hearing, if any, set by the court.

- a. The attorney general.
- b. The county attorney in the county where the applicant resides.
- c. The county attorney in the county where the applicant resided at the time of revocation.
- d. The chair of the Iowa Board of Law Examiners.
- e. The assistant director for attorney discipline of the office of professional regulation.
- f. Each judge of the district in which the applicant resided at the time of revocation.
- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided at the time of revocation.
- i. The president of The Iowa State Bar Association.

**35.14(13) Written statements.** Such persons, after receipt of the notice and before the date fixed for hearing, may submit to the clerk of the supreme court written statements of fact and comments regarding the current fitness of the applicant to practice law.

**35.14(14) Notices of witnesses and exhibits.** At least 14 days prior to the scheduled hearing date, the applicant and the Iowa Supreme Court Attorney Disciplinary Board must provide notice to the court, or to the special master or hearing panel, if applicable, and the opposing party of the names and expected testimony of any witnesses they intend to produce and file and serve copies of any exhibits they intend to introduce at the hearing. The parties may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The court, or the special master or hearing panel, if applicable, may waive these deadlines only upon good cause shown.

**35.14(15) Hearing.** The reinstatement hearing must be held at the time and place the court designates. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of revocation. The hearing will be public unless the court orders otherwise upon motion of a party. The hearing will be informal, and strict rules of evidence will not apply. The court may impose reasonable time limits on the length of the hearing, which must be recorded.

**35.14(16) Decision.**

a. The court's decision will be determined by majority vote of those justices participating in the proceeding. Any special master or hearing panel appointed to conduct a hearing must file a report containing findings of fact with the clerk within 30 days after the hearing. The court's review of the record made before the special master or hearing panel will be *novo*. An attorney's readmission to practice in another jurisdiction following revocation in Iowa is not binding on the decision of the Iowa Supreme Court on any application for reinstatement to practice in Iowa. The decision rests in the sole discretion of the supreme court.

b. The court at its discretion may place conditions on reinstatement, including but not limited to passing the Iowa Bar Examination. If the court does not require the applicant to pass the bar examination, it will impose a requirement that the applicant must report up to 100 hours of continuing

legal education. If the applicant refuses or fails to perform any of the conditions, the court may enter an order summarily denying the application or revoking the attorney's license, if admitted, without further hearing. The applicant must post a scaled score of at least 80 on the Multistate Professional Responsibility Exam (MPRE) as a condition of reinstatement. The MPRE score may be from a test taken no longer than three years prior to the date of filing of the application for reinstatement. An applicant may take the MPRE after the court's reinstatement decision, but the attorney will not be reinstated until the required score is filed.

**35.14(17)** *Applicability of rules to attorneys permanently enjoined from practicing law in Iowa.* Rules 35.14(7) through 35.14(16) also apply to attorneys not licensed in Iowa who have been enjoined by the Iowa Supreme Court from practicing law in Iowa on a permanent basis. Such attorneys who seek to have the injunction lifted must follow the procedures set forth for revoked attorneys in those rules, and their applications will be processed in the same manner.

**35.14(18)** *Denial of reinstatement for failure to comply with a support order.* An attorney who fails to comply with a support order may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The Child Support Recovery Unit (CSRU) must file with the clerk of the supreme court any certificate of noncompliance that involves an attorney. The procedure, including notice to the attorney, is governed by rule 35.20(1), except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an attorney's application for hearing, the clerk of district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing are governed by rule 35.20(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court must curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, must immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

**35.14(19)** *Denial of reinstatement for default on student loan obligation.* An attorney who defaults on an obligation owed to or collected by the College Student Aid Commission may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The College Student Aid Commission may file with the clerk of the supreme court any certificate of noncompliance that involves an attorney. The procedure, including notice to the attorney, is governed by rule 35.21(1), except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an attorney's application for hearing, the clerk of district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing are governed by rule 35.21(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court must curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, must immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

**35.14(20)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue.* An attorney who defaults on an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue (CCU) may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The CCU may file with the clerk of the supreme court any certificate of noncompliance that involves an attorney. The procedure, including notice to the attorney, is governed by rule 35.22(1), except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an attorney's application for hearing, the clerk of the district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing are governed by rule 35.22(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of noncompliance is filed, the supreme court must curtail any proceedings pursuant to the certificate of noncompliance or, if

necessary, must immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; June 5, 1996, effective July 1, 1996; December 20, 1996; November 25, 1998; December 17, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; April 25, 2008; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012; May 18, 2015, effective September 1, 2015]

#### **Rule 35.15 Conviction of a crime.**

**35.15(1)** Upon receipt by the supreme court of satisfactory evidence that an attorney had pled guilty or nolo contendere to, or has been convicted of, a crime which would be grounds for license suspension or revocation, such attorney may be temporarily suspended from the practice of law by the supreme court regardless of the pendency of an appeal. Not less than 20 days prior to the effective date of such suspension, the attorney concerned shall be notified, in writing directed by restricted certified mail to the last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and at a designated place to show cause why such suspension should not take place. Any hearing so held shall be informal and the strict rules of evidence shall not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time.

**35.15(2)** Any attorney suspended pursuant to this rule shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**35.15(3)** For good cause shown, the supreme court may set aside an order temporarily suspending an attorney from the practice of law as provided above upon application by such attorney and a hearing in accordance with rule 35.14, but such reinstatement shall neither terminate a pending disciplinary proceeding nor bar later proceedings against the attorney.

**35.15(4)** An attorney temporarily suspended under the provisions of this rule shall be promptly reinstated upon the filing of sufficient evidence disclosing the underlying conviction of a crime has been finally reversed or set aside, but such reinstatement shall neither terminate a pending disciplinary proceeding nor bar later proceedings against the attorney.

**35.15(5)** The clerk of any court in this state in which an attorney has pled guilty or nolo contendere to, or been convicted of, a crime as set forth above shall, within ten days, transmit a certified record of the proceedings to the clerk of the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 21, 1977; April 25, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 20, 2012]

#### **Rule 35.16 Suspension or disbarment on consent.**

**35.16(1)** An attorney subject to investigation or a pending proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or disbarment, but only by delivering to the grievance commission an affidavit stating the attorney consents to suspension of not more than a specific duration or disbarment and indicating the following:

*a.* The consent is freely and voluntarily given absent any coercion or duress, with full recognition of all implications attendant upon such consent.

*b.* The attorney is aware of a pending investigation or proceeding involving allegations that there exist grounds for discipline, the nature of which shall be specifically set forth.

*c.* The attorney acknowledges the material facts so alleged are true.

*d.* In the event proceedings were instituted upon the matters under investigation, or if existent proceedings were pursued, the attorney could not successfully defend against same.

*e.* The facts admitted in the affidavit would probably result in the suspension or revocation of the attorney's license to practice law.

*f.* Any matters in mitigation or aggravation.

*g.* Consent to any alternative or additional sanctions as provided in rule 35.10.

**35.16(2)** The Iowa Supreme Court Attorney Disciplinary Board shall file a response to the affidavit, indicating whether it believes the misconduct admitted in the affidavit would probably result in suspension or revocation of the attorney's license to practice law and citing any legal authorities supporting its conclusion.

**35.16(3)** Upon receipt of such affidavit and response, the grievance commission shall cause the same to be filed with the clerk of the supreme court. The supreme court shall enter an order suspending the attorney's license to practice law for a period no greater than the stipulated duration, or disbarring the attorney on consent, unless it determines the misconduct admitted in the affidavit is insufficient to support the discipline to which the attorney has consented. The court may also order any of the alternative or additional sanctions to which the respondent has consented. If the court determines the affidavit does not set forth facts that support imposition of the discipline to which the attorney has consented, it may either enter an order allowing the parties to supplement the affidavit or an order declining to accept the affidavit. An order declining to accept the affidavit shall not bar further disciplinary proceedings against the attorney, nor shall it preclude the court from imposing any sanction warranted by the attorney's conduct upon review of a grievance commission determination.

**35.16(4)** Any order suspending or disbarring an attorney on consent shall be a matter of public record. If an order of suspension or disbarment is entered, the affidavit and response shall be publicly disclosed.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 26, 2004; April 20, 2005, effective July 1, 2005; February 20, 2012]

#### **Rule 35.17 Disability suspension.**

**35.17(1)** In the event an attorney shall at any time in any jurisdiction be duly adjudicated a mentally incapacitated person, or person with a substance-related disorder, or shall be committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which any such adjudication or commitment is entered shall, within ten days, certify same to the clerk of the supreme court.

**35.17(2)** Upon the filing of any such certificate or a like certificate from another jurisdiction or upon determination by the supreme court pursuant to a sworn application on behalf of a local bar association or the Iowa Supreme Court Attorney Disciplinary Board that an attorney is not discharging professional responsibilities due to disability, incapacity, abandonment of practice, or disappearance, the supreme court may enter an order suspending the attorney's license to practice law in this state until further order of the court. Not less than 20 days prior to the effective date of such suspension, the attorney or the attorney's guardian and the director of the institution or hospital to which the attorney has been committed, if any, shall be notified, in writing directed by restricted certified mail to the last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and place and show cause why such suspension should not take place. Upon a showing of exigent circumstances, emergency or other compelling cause, the supreme court may reduce or waive the 20-day period and the effective date of action above referred to. Any hearing shall be informal and the strict rules of evidence shall not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time. A copy of such suspension order shall be given to the suspended attorney, or to the attorney's guardian and the director of the institution or hospital to which such suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

**35.17(3)** Upon the voluntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.9112 or upon the involuntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.2106(3)(a), the supreme court may enter an order suspending the retired judicial officer's license to practice law in this state in the event the underlying disability prevents the discharge of professional responsibilities of an attorney. The suspension shall be effective until further order of the court. A copy of such suspension order shall be given to the suspended attorney, or to the attorney's guardian and the director of the institution or hospital to which such suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

**35.17(4)** Any attorney suspended pursuant to this rule shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**35.17(5)** No attorney suspended due to disability under this rule may engage in the practice of law in this state until reinstated by order of the supreme court.

**35.17(6)** Upon being notified of the suspension of the attorney, the chief judge in the judicial district in which the attorney practiced shall appoint an attorney or attorneys to serve as trustee to inventory the files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons. Such appointment shall be subject to supreme court confirmation. The appointed attorney shall serve as a special member of the Iowa Supreme Court Attorney Disciplinary Board and as a commissioner of the supreme court for the purposes of the appointment. While acting as a trustee, the trustee shall not serve as an attorney for the clients of the disabled attorney and other affected persons. Neither shall the trustee examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee shall, as to such matters, protect the privacy interests of the disabled attorney's clients by prompt recusal or refusal of employment. The trustee may seek reasonable fees and reimbursement of costs of the trust from the suspended attorney. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, shall determine the merits of the claim and the amount of any payment from the fund. When the suspended attorney is reinstated to practice law in this state, or all pending representation of clients has been completed, or the purposes of the trust have been accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

**35.17(7)** Any attorney so suspended shall be entitled to apply for reinstatement to active status once each year or at such shorter intervals as the supreme court may provide. An attorney suspended due to disability may be reinstated by the supreme court upon a showing, by clear and convincing evidence, that the attorney's disability has been removed and the attorney is fully qualified to resume the practice of law. Upon the attorney's filing of an application for reinstatement, the supreme court may take or direct any action deemed necessary or proper to determine whether such suspended attorney's disability has been removed, including an examination of the applicant by such qualified medical experts as the supreme court shall designate. In its discretion the supreme court may direct that the expenses of such an examination be paid by the attorney.

**35.17(8)** The filing of an application for reinstatement to active status by an attorney suspended due to disability shall constitute a waiver of any doctor-patient privilege with regard to any treatment of the attorney during the period of the disability. The attorney shall also set forth in the application for reinstatement the name of every psychiatrist, psychologist, physician and hospital or any other institution by whom or in which the petitioning attorney has been examined or treated since the disability suspension and shall also furnish to the supreme court written consent that any such psychiatrist, psychologist, physician and hospital or other institution may divulge any information and records requested by the supreme court or any court-appointed medical experts.

**35.17(9)** When an attorney has been suspended due to disability and thereafter the attorney is judicially held to be competent or cured, the supreme court may dispense with further evidence regarding removal of the disability and may order reinstatement to active status upon such terms as are deemed reasonable.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 21, 1977; March 30, 1982; November 14, 1984, effective November 26, 1984; April 25, 1985; July 31, 1990, effective September 4, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, and July 1, 2005, effective July 1, 2005; October 12, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012; August 24, 2012]

**Rule 35.18 Death or suspension of practicing attorney.** Upon a sworn application on behalf of a local bar association or the Iowa Supreme Court Attorney Disciplinary Board showing that a practicing attorney has died or been suspended or disbarred from the practice of law and a reasonable necessity exists, the chief judge in the judicial district in which the attorney practiced shall appoint an attorney to serve as trustee to inventory the files, sequester client funds, and take any other

appropriate action to protect the interests of the clients and other affected persons. Such appointment shall be subject to confirmation by the supreme court. The appointed lawyer shall serve as a special member of the Iowa Supreme Court Attorney Disciplinary Board as a commissioner of the supreme court for the purposes of the appointment. While acting as a trustee, the trustee shall not serve as an attorney for the clients of the disabled attorney and other affected persons. Neither shall the trustee examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee shall, as to such matters, protect the privacy interests of the disabled attorney's clients by prompt recusal or refusal of employment. The trustee may seek reasonable fees and reimbursement of costs of the trust from the deceased attorney's estate or the attorney whose license to practice law has been suspended or revoked. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, shall determine the merits of the claim and the amount of any payment from the fund. When all pending representation of clients has been completed or the purposes of the trust have been accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; March 30, 1982; May 19, 1982; July 31, 1990, effective September 4, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, and July 1, 2005, effective July 1, 2005; February 20, 2012]

#### **Rule 35.19 Reciprocal discipline.**

**35.19(1)** Any attorney admitted to practice in this state, upon being subjected to professional disciplinary action in another jurisdiction or in any federal court, shall promptly advise the Iowa Supreme Court Attorney Disciplinary Board, in writing, of such action. Upon being informed that an attorney admitted to practice in this state has been subjected to discipline in another jurisdiction or any federal court, the board shall obtain a certified copy of such disciplinary order and file it in the office of the clerk of the supreme court.

**35.19(2)** Upon receipt of a certified copy of an order disclosing an attorney admitted to practice in this state has been disciplined in another jurisdiction or any federal court, the supreme court shall promptly give notice thereof by restricted certified mail or personal service directed to such attorney containing: a copy of the disciplinary order from the other jurisdiction or federal court, and an order directing that such disciplined attorney file in the supreme court, within 30 days after receipt of the notice, any objection that imposition of identical discipline in this state would be too severe or otherwise unwarranted, giving specific reasons. A like notice shall be sent, by ordinary mail, to the board, which shall have the right to object on the ground that the imposition of identical discipline in this state would be too lenient or otherwise unwarranted. If either party so objects, the matter shall be set for hearing before three or more justices of the supreme court and the parties notified by restricted certified mail at least ten days prior to the date set. At such hearing a certified copy of the testimony, transcripts, exhibits, affidavits and other matters introduced into evidence in such jurisdiction or federal court shall be admitted into evidence as well as any findings of fact, conclusions of law, decision and orders. Any such findings of fact shall be conclusive and not subject to readjudication. Thereafter, the supreme court shall enter such findings, conclusions and orders that it deems appropriate.

**35.19(3)** If neither party objects within 30 days from service of the notice, the supreme court may impose the identical discipline, unless the court finds that on the face of the record upon which the discipline is predicated it clearly appears that any of the following exist:

*a.* The disciplinary procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.

*b.* There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that the supreme court could not, conscientiously, accept as final the conclusion on that subject.

*c.* The misconduct established warrants substantially different discipline in this state.

**35.19(4)** If the supreme court determines that any such factors exist, it may enter an appropriate order. Rule 35.14 shall apply to any subsequent reinstatement or reduction or stay of discipline.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 20, 2012]

**Rule 35.20 Suspension of attorney's license for failure to comply with a support order.** An attorney who fails to comply with a support order may be subject to a suspension of the attorney's license to practice law in Iowa.

**35.20(1) Procedure.** The Child Support Recovery Unit (CSRU) shall file any certificate of noncompliance with a support order which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the CSRU to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county in which the underlying support order is filed.

c. The application for hearing must be filed with the district court clerk within 30 days of the date of issuance of the notice, and copies of the application must be provided to the CSRU and the office of professional regulation of the supreme court by regular mail.

d. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

e. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

**35.20(2) District court hearing.**

a. Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the obligor, the CSRU, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the CSRU's written decision and certificate of noncompliance from the CSRU and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to determining if there has been a mistake of fact relating to the attorney's support delinquency. The court shall not consider visitation or custody issues, and shall not modify the support order.

e. If the district court concludes the CSRU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the court shall order the CSRU to file a withdrawal of certificate of noncompliance with the office of professional regulation of the supreme court.

**35.20(3) Noncompliance certificate withdrawn.** If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

**35.20(4) Sharing information.** Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation of the supreme court is authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; December 20, 1996; November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; July 27, 2009; February 20, 2012]

**Rule 35.21 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the College Student Aid Commission.** An attorney who defaults on an obligation owed to or collected by the College Student Aid Commission (commission) may be subject to a suspension of the attorney's license to practice law in Iowa.

**35.21(1) Procedure.** The commission shall file any certificate of noncompliance which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate

of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

*a.* The attorney's license to practice law will be suspended unless the attorney causes the commission to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

*b.* The attorney must contact the commission to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

*c.* The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the attorney's county of residence.

*d.* The application for hearing must be filed with the district court clerk within 30 days of the date of issuance of the notice, and copies of the application must be provided to the commission and the office of professional regulation of the supreme court by regular mail.

*e.* The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

*f.* The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

**35.21(2) District court hearing.**

*a.* Upon receipt of an application for hearing by the attorney, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the attorney, the commission, and the office of professional regulation of the supreme court.

*b.* Prior to the hearing, the district court shall receive a certified copy of the commission's written decision and certificate of noncompliance from the commission and a certified copy of the notice from the office of professional regulation of the supreme court.

*c.* If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

*d.* The district court's scope of review shall be limited to determining if there has been a mistake of fact relating to the attorney's delinquency.

*e.* If the district court concludes the commission erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court shall order the commission to file a withdrawal of the certificate of noncompliance with the office of professional regulation of the supreme court.

**35.21(3) Noncompliance certificate withdrawn.** If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 25, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; July 27, 2009; February 20, 2012]

**Rule 35.22 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue.**

**35.22(1) Procedure.** The Centralized Collection Unit of the Department of Revenue (CCU) shall file any certificate of noncompliance which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

*a.* The attorney's license to practice law will be suspended unless the attorney causes the CCU to file a withdrawal of the certificate of noncompliance within 30 days of the date of issuance of the notice.

*b.* The attorney must contact the CCU to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

*c.* The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county where the majority of the liability was incurred.

d. The application for hearing must be filed with the clerk of the district court within 30 days of the date of issuance of the notice, and copies of the application must be provided to the CCU and the office of professional regulation of the supreme court by regular mail.

e. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

f. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

**35.22(2) District court hearing.**

a. Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the attorney, the CCU, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the CCU's written decision and certificate of noncompliance from the CCU and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

e. If the district court concludes the CCU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court shall order the CCU to file a withdrawal of the certificate of noncompliance with the office of professional regulation of the supreme court.

**35.22(3) Noncompliance certificate withdrawn.** If a withdrawal of the certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

**35.22(4) Sharing information.** Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation of the supreme court is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify licensees subject to enforcement under Iowa Code chapter 272D. [Court Order June 5, 2008, effective July 1, 2008; July 27, 2009; February 20, 2012]

**Rule 35.23 Notification of clients and counsel.**

**35.23(1)** In every case in which a respondent is ordered to be disbarred or suspended, the respondent shall do all of the following:

a. Within 15 days notify in writing the respondent's clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney.

b. Within 15 days deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days refund any part of any fees paid in advance that have not been earned.

d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel the adverse parties, of the respondent's disbarment or suspension and consequent disqualification to act as an attorney after the effective date of such discipline or transfer to disability inactive status.

e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the foregoing.

g. Within 30 days file with the Iowa Supreme Court Attorney Disciplinary Board copies of the notices sent pursuant to the requirements of this rule and proof of complete performance of the requirements, and this shall be a condition for application for readmission to practice.

**35.23(2)** The times set forth in 35.23(1)(c) and 35.23(1)(g) of this rule shall be reduced to 15 days for respondents who are exempted from filing an application for reinstatement under rule 35.13.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; January 15, 1979; April 14, 1989, effective May 15, 1989; December 15, 1994, effective January 3, 1995; April 2, 2001; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012]

**Rule 35.24 Immunity.**

**35.24(1)** Complaints submitted to the grievance commission or the disciplinary board, or testimony with respect thereto, shall be privileged and no lawsuit predicated thereon may be instituted.

**35.24(2)** Claims against members of the grievance commission, the disciplinary board, and the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

**35.24(3)** A true copy of any complaint against a member of the grievance commission or the disciplinary board involving alleged violations of an attorney's oath of office or of the Iowa Rules of Professional Conduct and laws of the United States or state of Iowa shall be promptly forwarded to the chief justice of the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 31, 1987, effective September 1, 1987; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012]

**Rule 35.25 Reports.** The chair of the grievance commission and the chair of the disciplinary board shall, on February 1 of each year, submit to the supreme court a consolidated report of the number of complaints received and processed during the prior calendar year, a synopsis of each such complaint, and the disposition thereof. The name of the attorney charged and the name of the complainant shall be omitted, but a synopsis of the charges made and a report of disposition shall be included.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; October 16, 1987, effective December 1, 1987; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; June 5, 2008, effective July 1, 2008; February 20, 2012]

**Rule 35.26 Effective dates.** These rules shall have prospective and retrospective application to all alleged violations, complaints, hearings, and dispositions thereof on which a hearing has not actually been commenced before the grievance commission prior to the effective date of these rules.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; February 20, 2012]

**Rule 35.27 Costs.**

**35.27(1)** In the event that an order of revocation, suspension, or public reprimand results from formal charges of misconduct, the supreme court shall assess against the respondent attorney the costs of the proceeding. For the purposes of this rule, costs shall include those expenses normally taxed as costs in state civil actions pursuant to the provisions of Iowa Code chapter 625.

**35.27(2)** Within 30 days of the filing of the commission report, the commission shall serve the complainant and the respondent with a bill of costs and file the bill with the clerk of the supreme court. An appeal does not obviate this requirement. The complainant and the respondent shall have ten days from the date of service to file written objections with the supreme court and the clerk of the grievance commission. Any objections filed shall be considered by the president of the grievance commission division or the president's designee. The president or the designee shall rule on the objections within ten days. The ruling and objections shall be considered by the supreme court upon disposition of the matter under rule 35.11 or 35.12. Additional costs associated with an appeal shall be taxed by the clerk as in other civil actions.

**35.27(3)** In its final decision, the supreme court shall order the respondent to pay restitution to the complainant for such costs as the supreme court may approve. A suspended or disbarred attorney may not file an application for reinstatement or readmission until the amount of such restitution for costs assessed under this rule has been fully paid, or waived by the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; September 15, 1986, effective October 1, 1986; March 27, 1990, effective May 1, 1990; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; May 30, 2007; June 5, 2008, effective July 1, 2008; February 20, 2012]

**Rule 35.28 Rules.** The grievance commission and the disciplinary board shall each adopt reasonable rules prescribing the procedure to be followed in all disciplinary proceedings before each such body, which rules shall be subject to supreme court approval.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 9, 2003; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012]

**Rule 35.29 Retention of records.**

**35.29(1)** Board files and records relating to allegations of misconduct by an attorney shall be retained by the board until destruction is authorized pursuant to the following schedule:

*a.* Files and records relating to complaints dismissed by the assistant director pursuant to rule 34.4(1) shall be destroyed one year from the date of the last action on the file.

*b.* Files and records relating to all other complaints dismissed by the board shall be destroyed five years from the date of the last action on the file.

*c.* All other files and records relating to allegations of misconduct by an attorney shall be destroyed after the death of the attorney.

*d.* For purposes of this section, destruction of paper files after such files have been transferred to computer storage is permitted immediately after such transfer.

**35.29(2)** Notwithstanding any required destruction of documents, the board shall permanently maintain a summary of all complaint matters containing the name of the complainant and the respondent, the disposition, and the respective dates the matter was opened and closed.

[Court Order December 10, 2012]



**CHAPTER 47**  
**COURT INTERPRETER AND TRANSLATOR RULES**

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## CHAPTER 47

### COURT INTERPRETER AND TRANSLATOR RULES

[Prior to April 1, 2008, see Chapter 14]

**Rule 47.1 Definitions.** As used in this chapter:

*Certified deaf interpreter (CDI).* A “CDI” is an interpreter who is deaf, has obtained a Certified Deaf Interpreter certificate or a Certified Legal Interpreter Provisional—Relay (CLIP-R) certificate from the Registry for Interpreters for the Deaf (RID), and who provides interpreting services to deaf persons with linguistic differences that prevent them from fully utilizing a traditional American Sign Language (ASL) interpreter.

*Court interpreter or interpreter.* A “court interpreter” or “interpreter” means an oral or sign language interpreter who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a legal proceeding.

*Court-ordered program.* A “court-ordered program” is a predisposition program in which a court has ordered a party to participate.

*Court personnel.* “Court personnel” includes clerk of court staff and district court administration staff.

*Court proceeding.* A “court proceeding” is any action before a state court judicial officer that has direct legal implications for any person.

*Legal proceeding.* A “legal proceeding” includes any court proceeding, any deposition conducted in preparation for a court proceeding, any case settlement negotiation in an existing court case, and any attorney-client communication necessary for preparation for a court proceeding in an existing court case.

*Limited English proficient (LEP) participant or person.* An “LEP participant” or “LEP person” has a limited ability to speak, read, write, or understand English because the person’s primary language is not English or because the person is deaf, deaf-blind, or hard-of-hearing.

*Participant in a legal proceeding.* A “participant in a legal proceeding” is any of the following: a party or witness in a court or legal proceeding; a party participating in a court-ordered program; a parent, guardian, or custodian of a minor party involved in a juvenile delinquency proceeding; a deaf, deaf-blind, or hard-of-hearing attorney; or a deaf, deaf-blind, or hard-of-hearing person summoned for jury duty or grand jury duty.

*Reasonably available interpreter.* Subject to the exceptions identified in rule 47.3(6), a “reasonably available interpreter” is an interpreter available and willing to provide in-person services at the time and location of the legal proceeding and who resides within 150 miles of the location where the legal proceeding will occur. A reasonable distance could be more than 150 miles when an interpreter of an uncommon language is needed or the case could result in serious consequences for one of the parties, including but not limited to termination of parental rights, a sentence to serve time in a state correctional facility, or substantial financial damages.

*Translator.* A “translator” accurately transfers the meaning of written, oral, or signed words and phrases in one language into the equivalent meaning in written words and phrases of a second language, or accurately produces a written transcript in English of electronically recorded testimony or other court communication in which one or more of the participants has limited English proficiency.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

**Rule 47.2 Minimum qualifications of a court interpreter.**

**47.2(1) Qualifications.**

*a. Minimum age.* A court interpreter must be at least 21 years old.

*b. Education.* A court interpreter must have completed at least the equivalent of two years or 48 credit hours of college courses or must have completed the requirements in rules 47.4 or 47.5 to qualify for the Iowa roster of court interpreters.

*c. Approval of office of professional regulation.*

(1) *Court interpreter application form.* A court interpreter must complete an application form, developed by the director of the Office of Professional Regulation of the Iowa Supreme Court (the OPR), on which the interpreter provides information about the interpreter’s education, experience,

prior misconduct, and references to assist the court in determining the interpreter's qualifications for court interpreting.

(2) *Criminal records search.* A criminal records search will be completed by the OPR or a designee of the OPR at the time the application to be a court interpreter is filed with the OPR. The criminal record search may be waived for an interpreter who has had a criminal records search completed by the OPR or a designee of the OPR within six months of the filing date of the application.

(3) *No prior disqualifying misconduct.* The OPR will review the applicant's application and criminal background check for possible disqualifying misconduct as identified in rule 47.2(1)(c)(3)(1) through (2). When reviewing possible disqualifying misconduct, the OPR will weigh any mitigating or aggravating factors identified in rule 47.10(6) and the applicant's candor in the application process. The OPR may determine whether the misconduct disqualifies the applicant from being a court interpreter. Possible disqualifying misconduct includes:

1. A felony or any lesser crime of dishonesty or moral turpitude for which the applicant was convicted in any jurisdiction. An offense is a felony if it was classified as a felony in the jurisdiction where the conviction was entered at the time of the conviction.

2. Ethical misconduct that resulted in the bar or suspension of the interpreter from interpreting in any jurisdiction.

*d. Oath or affirmation.* At the start of a court proceeding or a deposition in which an interpreter is present to facilitate communication with an LEP participant, the judicial officer presiding at the court proceeding or an attorney involved in taking the deposition must ask the interpreter on the record to swear or affirm that the interpreter has the knowledge and skills to interpret completely and accurately in a legal proceeding, understands and will abide by the Code of Professional Conduct for Court Interpreters and Translators in Chapter 48 of the Iowa Court Rules, and will interpret in court to the best of the interpreter's ability.

*e. Sign language interpreter qualifications.* In addition to meeting the minimum qualifications in rule 47.2(1)(a) through (d), a sign language interpreter must be licensed by the Iowa Board of Sign Language Interpreters and Translators pursuant to Iowa Code chapter 154E, except as allowed under Iowa Code section 154E.4, and must meet the qualifications to be at least a Class B interpreter in rule 47.5(2).

**47.2(2) Waiver of minimum qualifications for oral language court interpreters.**

*a. Waiver only in extraordinary circumstances.* A court may waive minimum qualifications for an oral language court interpreter only in extraordinary circumstances.

(1) For court proceedings expected to last approximately 30 minutes or less, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services and when there is no qualified interpreter available through a remote audio or video interpreter service consistent with rule 47.3(7).

(2) For court proceedings expected to last more than approximately 30 minutes, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services. In this circumstance, the court may waive the minimum requirements in rules 47.2(1)(a) through (c) subject to the following limitations:

1. If waiving the minimum age requirement in rule 47.2(1)(a), the court may approve an interpreter who is not less than 18 years old.

2. If waiving the minimum education requirement of rule 47.2(1)(b), the court may approve an interpreter who has at least a high school diploma or its equivalent.

*b. Before waiving minimum qualifications.* Before waiving minimum qualifications, the court should reschedule a court proceeding if it is likely that the additional time will allow court personnel to obtain the services of an interpreter who meets at least the minimum qualifications and the delay will not result in a failure to meet a statutory or constitutional deadline for conducting the court proceeding.

*c. Waiver of interpreter qualifications on the record.* Whenever the court waives one or more of the qualifications under rule 47.2(1), the court must explain the reasons for the waiver on the record. [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

### **Rule 47.3 Scheduling and appointing a court interpreter.**

**47.3(1) Persons who qualify for appointment of a court interpreter.** When the court or court personnel have a reasonable basis to believe a person has limited English proficiency, unless the

court determines that another reasonable accommodation is appropriate, the person qualifies for appointment of a court interpreter if the LEP person is a participant in a legal proceeding.

**47.3(2)** *Application for appointment of a court interpreter.* An attorney must file an application for appointment of a court interpreter with the clerk of court as soon as the attorney learns that the attorney's client or a witness for a client needs an interpreter for a court proceeding. A self-represented party should file an application for appointment of a court interpreter with the clerk of court as soon as possible after the party learns that the party or a witness for the party needs an interpreter for a court proceeding. Court personnel should obtain the assistance of an interpreter while helping an unrepresented LEP party complete the form.

**47.3(3)** *Responsibility for selection and appointment of a court interpreter.* When a court or court personnel learn that an interpreter is needed for an LEP participant in a court proceeding, court personnel will contact and select the most qualified interpreter who is reasonably available using the priorities established in rules 47.3(4) through (7). This responsibility cannot be delegated to an attorney or party involved in the case.

**47.3(4)** *Priorities in the selection of an oral language interpreter.* Subject to exceptions identified in rule 47.3(6), the court or court personnel must select the highest classified interpreter who is reasonably available for the court proceeding, giving preference to interpreters who are on Iowa's roster of court interpreters and using the following classification order:

a. Class A certified interpreter, defined in rules 47.4(1) and 47.4(5)(a).

b. Class B noncertified interpreter, defined in rule 47.4(2).

c. Class C noncertified interpreter, defined in rule 47.4(3) and 47.4(5)(b).

d. Oral language interpreter on the list of approved interpreters in another jurisdiction. When there is no interpreter on Iowa's roster of court interpreters who is reasonably available, court personnel must seek an interpreter who is on an official list of certified or qualified interpreters approved by another state court system before selecting an unclassified interpreter as defined in rule 47.4(4).

e. Unclassified noncertified interpreter, defined in rule 47.4(4). An unclassified interpreter will be selected only when there is no reasonably available interpreter who meets the minimum qualifications of rule 47.2(1).

**47.3(5)** *Priorities in the selection of a sign language interpreter.* Subject to exceptions identified in rule 47.3(6), the court or court personnel will select the highest classified interpreter who is reasonably available for a court proceeding using the following classification order, and within each classification, will give preference to interpreters who are on Iowa's roster of court interpreters:

a. Class A certified interpreter, as defined in rule 47.5(1).

b. Class B noncertified interpreter, as defined in rule 47.5(2).

**47.3(6)** *Exceptions to the priorities for selecting a court interpreter.*

a. *Court proceedings within a magistrate's jurisdiction.* For any court proceeding within a magistrate's jurisdiction, except a court proceeding involving a simple misdemeanor domestic assault charge, the court may appoint a reasonably available Class B or Class C noncertified interpreter on Iowa's roster of court interpreters before seeking the services of a Class A certified interpreter.

b. *Interpreter required on short notice.* If a court receives notice for the need of an interpreter after 4 p.m. the previous workday or on the day the court proceeding is scheduled to occur, and the court determines that rescheduling the court proceeding would not be appropriate under the circumstances, the court may appoint the highest classified interpreter who is available to interpret at the required time and location. A Spanish interpreter, however, must be at least a Class C interpreter and an American Sign Language interpreter must be at least a Class B interpreter.

c. *Unavailability of certified court interpreter.*

(1) If court personnel are unable to locate a reasonably available certified court interpreter for a legal proceeding in an indictable criminal case or termination of parental rights case, court personnel will conduct a regional or national search.

(2) If court personnel are unable to locate a reasonably available certified court interpreter for cases other than indictable criminal or termination of parental rights, court personnel may conduct a regional or national search.

(3) If court personnel are unable to locate an available certified court interpreter after a regional or national search, court personnel will attempt to locate a noncertified interpreter who is on the Iowa roster of court interpreters or who is on a list of qualified noncertified interpreters maintained by another state court system.

(4) If court personnel are unable to locate an available certified or a qualified noncertified interpreter under rule 47.3(6)(c)(1) through (3), court personnel may appoint an interpreter who is not on a list of qualified interpreters maintained by any state court system.

(5) Court personnel may request assistance from state court administration in conducting a regional or national search for a court interpreter.

*d. Civil pretrial proceedings.* For any proceeding other than a trial, the court may appoint a reasonably available Class B noncertified interpreter.

**47.3(7) Interpreter services through remote audio or video communications technology.**

*a.* For a brief court proceeding expected to last 30 minutes or less, a court may appoint an appropriate interpreter available through a remote audio or video interpreter service.

*b.* A court may appoint a remote audio or video interpreter only from a service the state court administrator has approved.

*c.* A remote video sign language interpreter must be a Class A certified interpreter or Class B noncertified interpreter as defined in rule 47.4(1) or 47.4(2).

*d.* For a brief court proceeding expected to last 30 minutes or less, a court may appoint a remote Class A certified interpreter or Class B noncertified interpreter instead of a less qualified interpreter available to interpret in person.

*e.* The court will enter into the record of the court proceeding the interpreter's name, the interpreter services company that provided the interpreter (if applicable), and the interpreter's formal education, interpreter testing and training, experience as an interpreter, and experience as a court interpreter.

*f.* A court may approve a remote interpreter only if the court concludes that the interpreter has the qualifications to be a competent court interpreter.

*g.* Before or at a court proceeding for which a remote interpreter is appointed to facilitate communication with an LEP participant, the court will enter an order appointing the remote interpreter consistent with rule 47.3(8).

*h.* If the court declines to appoint an interpreter who appears at a court proceeding or discontinues use of an interpreter after a court proceeding has begun and the hearing will be approximately 30 minutes or less, the court may obtain an interpreter through a remote interpreter service approved by the state court administrator; otherwise the court may postpone the court proceeding to allow time for court personnel to procure the services of a qualified interpreter consistent with the criteria in rules 47.3(4) through (6).

**47.3(8) Order appointing a court interpreter.**

*a.* When a court interpreter is identified consistent with rule 47.2, the court will enter an order appointing the interpreter prior to the legal proceeding, unless the court has previously entered an order appointing the interpreter for all subsequent proceedings in the case.

*b.* When the court appoints an interpreter for an LEP defendant at an initial appearance, whether the interpreter appears in person or through a remote interpreter service, the order appointing the interpreter must also include the appointment of a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7), or the order must direct the district court administrator to schedule a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7).

*c.* An order appointing an interpreter must identify the interpreter's classification under rule 47.4, identify the sign or oral language for which the interpreter is needed, and set the level of compensation for the interpreter consistent with the state court administrator's standard statewide fees and policies for compensation.

**47.3(9) Examination of court interpreter qualifications.**

*a.* At the start of any court proceeding for which an interpreter will be providing services, the court will question the interpreter on the record regarding the interpreter's classification. If the interpreter is not a Class A or Class B interpreter, the court will inquire on the record about the interpreter's education, knowledge of English and the other language, and interpreting experience.

*b.* If the court finds that the interpreter meets the minimum qualifications in rule 47.2(1), is the highest classified interpreter who is reasonably available consistent with rules 47.3(4) through (7), and has no disqualifying conflict of interest, the court may approve an existing order appointing the interpreter or may enter an order appointing the interpreter.

*c.* At any time during the court proceeding, if the court finds a reasonable basis to believe that an interpreter does not have the appropriate knowledge, skills, or experience to competently interpret

the court proceeding, or that the interpreter has a disqualifying conflict of interest, the court must discontinue use of the interpreter.

**47.3(10) *Persons prohibited from appointment as a court interpreter.*** A court may not appoint a person to be a court interpreter in a legal proceeding if that person is a family member or personal friend of any of the parties or of the person needing an interpreter, or of any person involved in the legal proceeding, including but not limited to: a domestic abuse advocate, attorney, court-appointed special advocate (CASA), juvenile court officer, law enforcement officer, or social worker.

**47.3(11) *Disclosure of conflicts of interest and objections to a court interpreter.***

*a.* A court interpreter must promptly inform the court of any known factors that could constitute a conflict of interest for the interpreter in the legal proceedings.

*b.* Objections regarding a court interpreter's competence or conflict of interest must be made within a reasonable time after the grounds for the objection become apparent.

*c.* Class A and Class B court interpreters, as defined in rule 47.4 and rule 47.5, are presumed competent to interpret in all legal proceedings.

*d.* The court will make rulings on objections on the record.

**47.3(12) *Number of court interpreters.***

*a.* A court may appoint more than one interpreter if it finds a reasonable basis for multiple interpreters for the court proceeding.

*b.* When a party needs an interpreter and the court expects the interpreted event on a given day to be complex or to last more than four hours, the court must appoint more than one interpreter to serve as a team or as relay interpreters during the court proceeding and may appoint more than one interpreter for a deposition.

*c.* When determining whether a court proceeding that is expected to be less than four hours is complex, the court may consider the following: the number of parties or participants who will need an interpreter; whether both a witness and a party will need an interpreter at the same time; whether technical or specialized terms will be used frequently in the court proceeding; and whether the gravity of the court proceeding enhances concern for the accuracy of the interpretation.

*d.* When two or more parties with adverse interests in a case need an interpreter, the court will appoint a separate interpreter for each party, unless the parties waive the right to separate interpreters.

*e.* When an appointed American Sign Language (ASL) interpreter reports difficulty communicating with an LEP participant, the court may appoint a certified deaf interpreter (CDI) to work as a relay interpreter with the ASL interpreter.

*f.* Whenever a government entity will be responsible for paying the interpreters, more than one interpreter will be paid for services during the same court or legal proceeding only if a court enters an order appointing more than one interpreter.

**47.3(13) *Interpreter cancellation and substitution.*** When a court interpreter learns that the interpreter will be unable to fulfill the terms of an appointment or agreement to interpret during a court proceeding, the interpreter must:

*a.* Promptly arrange for a substitute interpreter who resides in the county where the court proceeding is scheduled to occur, or a county contiguous to that county, and who has a classification under rule 47.4 that is equal to or greater than the original interpreter's classification. When a substitute interpreter has been secured, the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled and the attorney whose client needs an interpreter, if applicable, regarding the substitution.

*b.* If the original interpreter is unable to secure a substitute interpreter consistent with rule 47.2(13)(a), the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled that a substitute interpreter is needed for the court proceeding.

**47.3(14) *Reimbursement of oral language interpreter fees paid by state court administration.***

*a.* For purposes of rule 47.3(14), "interpreter" applies only to oral language interpreters and translators.

*b.* When state court administration pays an interpreter for services provided to an LEP participant in a court proceeding, the court will apportion costs according to the following provisions:

(1) In a criminal case in which an interpreter provided services for a non-indigent defendant, the court will order the defendant to pay the total amount of interpreter fees to the court.

(2) In a child in need of assistance or termination of parental rights case in which an interpreter provided services for a parent, guardian, or custodian who was represented by a privately retained

attorney, the court will order the person who needed the interpreter to pay the total amount of interpreter fees to the court.

(3) In a juvenile delinquency case in which an interpreter provided services for a parent whose child was the subject of a delinquency petition, the court will order the parent who needed an interpreter to pay the total amount of interpreter fees to the court.

(4) In a civil case other than child in need of assistance or termination of parental rights, the court will tax the total amount of interpreter fees as court costs pursuant to Iowa Code sections 622A.3(2) and 625.1.

*c.* This rule does not limit the authority of the court to order the repayment of interpreter fees paid by another public agency, such as the state public defender, pursuant to any applicable statute or rule that authorizes or requires the repayment.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

#### **Rule 47.4 Classification of oral language court interpreters.**

**47.4(1) Class A oral language court interpreter.** A Class A oral language court interpreter is a certified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following:

*a.* Satisfied all certification requirements for an oral language interpreter established by the Federal Court Interpreter Certification Program or the National Association of Judiciary Interpreters and Translators.

*b.* Taken oral interpretation examinations for court interpreter certification approved by the Language Access Services Division of the National Center for State Courts (NCSC) and achieved a passing score of at least 70 percent correct on each of the three parts of the oral examination (sight interpretation of written documents, consecutive interpretation, and simultaneous interpretation) in a single test session.

**47.4(2) Class B oral language court interpreter.** A Class B oral language court interpreter is a noncertified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following:

*a.* Taken one of the court interpreter certification examinations identified in rule 47.4(1)(b) and did not meet the test score requirements for certification, but achieved an average score of at least 65 percent correct on the three parts of the oral interpretation examination in one test session.

*b.* Met the oral interpretation examination score requirements for court interpreter certification in a state that uses the oral interpretation examinations approved by the NCSC, but did not achieve scores of at least 70 percent correct on all three parts of the oral examination in a single test session.

*c.* Completed a college-level court interpreter training program approved by the director of the OPR with a grade point average of at least 3.0.

**47.4(3) Class C oral language court interpreter.** A Class C oral language court interpreter is a noncertified interpreter who has met the criteria under rule 47.6 to qualify for the Iowa roster of court interpreters, but has not met the criteria under rule 47.4(1) or (2) to be a Class A or B oral language court interpreter.

**47.4(4) Unclassified oral language court interpreter.** An unclassified oral language interpreter has not met the requirements under rules 47.4(1), (2), or (3) to be a Class A, Class B, or Class C oral language interpreter and has not met the requirements to be on an official list of qualified court interpreters in another state.

**47.4(5) Oral language interpreters on a list of qualified interpreters approved by another state.**

*a.* Interpreters who have met the testing requirements for certification in rule 47.4(1)(a) or (b) by taking those examinations in another state, will be classified as certified court interpreters and receive the same hourly fee as Class A certified court interpreters in Iowa. These interpreters must still meet the requirements in rule 47.6 to be on the Iowa roster of court interpreters, and certified interpreters on the roster will receive preference for appointments over certified interpreters who are not on the roster.

*b.* Interpreters who have met testing and training requirements to be included on a list of qualified court interpreters in another state, but who have not met the testing requirements in rule 47.4(1)(a) or (b), will be comparable to Class C interpreters in Iowa. These interpreters must still meet the

requirements in rule 47.6 to be on the Iowa roster of court interpreters, and interpreters on the roster will receive preference in appointments over interpreters who are not on the roster.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

#### **Rule 47.5 Classification of sign language court interpreters.**

**47.5(1) Class A sign language court interpreter.** A Class A sign language court interpreter is a certified interpreter who:

*a.* Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Transliterators and a “specialist certificate: legal (SC:L)” or a conditional legal interpreting permit—relay (CLIP-R) from the National Testing System of the Registry of Interpreters for the Deaf (RID); or

*b.* Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3 and holds a valid SC:L from the RID. Pursuant to Iowa Code section 154E.4(2)(a), an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.

**47.5(2) Class B sign language court interpreter.** A Class B sign language court interpreter is a noncertified interpreter who:

*a.* Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Transliterators and has at least one of the following certificates: a certificate based on the National Interpreter Certification (NIC) examination; an advanced (NAD IV) or master (NAD V) certificate from the National Association for the Deaf (NAD); a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), both a certificate of interpretation (CI) and a certificate of transliteration (CT), or a certified deaf interpreter (CDI) certificate from the National Testing System of the RID; or

*b.* Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3, and holds one of the certificates or qualifications identified in rule 47.5(2)(a), and is on a list of noncertified sign language interpreters (without an SC:L) approved by the state court interpreter program in another state. Pursuant to Iowa Code section 154E.4(2)(a) an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

#### **Rule 47.6 Iowa roster of court interpreters.**

**47.6(1) Management.** The director of the Iowa Supreme Court Office of Professional Regulation (the OPR) will maintain and publish the Iowa roster of court interpreters and may determine the order in which interpreters must complete the testing and training requirements in rule 47.4 to qualify for the roster.

**47.6(2) Testing and training requirements.** To be included on the roster, an interpreter must meet the qualifications in rule 47.4 and the following requirements:

*a. Ethics exam.* All interpreters must take a written exam on the Code of Professional Conduct for Court Interpreters and achieve a score of at least 75 percent correct, unless the interpreter has taken the same or a similar exam in another state within the past five years and achieved a score of at least 75 percent correct.

*b. Written exam approved by the NCSC.* Interpreters must achieve a score of at least 80 percent correct on a written exam for court interpreters that the National Center for State Courts (NCAC) has approved and that includes at least the following areas: general English vocabulary, legal terminology, and legal procedures. This requirement may be waived by the director of the OPR if the interpreter has taken the same test in Iowa or another jurisdiction within the past five years, achieved a score of 80 percent correct, and has regularly provided court interpreter services each year since taking the exam.

*c. Oral proficiency interview exam.* Under the supervision of OPR staff or a designee of the OPR director, an oral language interpreter must complete an oral proficiency interview exam offered by ALTA Language Services in the interpreter’s non-English language and achieve a score of at least 11 on a scale of 12. Interpreters classified as class A or B before July 1, 2015, are not be required to

take this exam. Class C interpreters on the Iowa roster of court interpreters before July 1, 2015, must pass this exam within six months after that date to remain on the roster. Interpreters not on the roster before July 1, 2015, must pass ALTA's oral proficiency interview exam to be listed on the roster.

*d. Court interpreter orientation program.* An interpreter must complete the court interpreter orientation program approved by the director of the OPR. The director of the OPR may waive this requirement for an interpreter who has completed a similar training program in another jurisdiction within the past three years, and who has regularly provided court interpreter services each year since completing that program.

[Court Order August 10, 2009; December 4, 2014, effective July 1, 2015]

**Rule 47.7 Mandatory continuing education.** Interpreters on the Iowa statewide roster of court interpreters must satisfy continuing education requirements to remain on the roster and to maintain a certified status.

**47.7(1) Annual report deadline, fee, and hours required.**

*a. Annual report deadline.* Beginning in 2017, by May 15 of each year, interpreters on the Iowa roster of court interpreters must report to the OPR continuing education hours for the previous calendar year, using a form the OPR provides.

*b. Annual report fee.* Upon the filing of the annual continuing education report, interpreters on the statewide roster must pay a fee of \$10 to the OPR.

*c. Required hours of continuing education.* Beginning in 2016, during each calendar year interpreters on the Iowa roster of court interpreters must attend at least six hours of continuing education that contributes directly to the professionalism and competency of the court interpreter. At least one of the six hours must address court interpreter ethics. Court interpreters on the Iowa roster of court interpreters do not have to meet these continuing education requirements during the first calendar year the interpreters are on the roster, but they must file the annual continuing education report and pay the annual continuing education fee by May 15 of the following calendar year.

**47.7(2) Education program requirements.** Either live on-site or live interactive computer-based education may be used to fulfill the continuing education requirements. Up to three hours of the continuing education requirements may be fulfilled by unmoderated activity. "Unmoderated activity" means continuing education activity presented by delayed or on-demand transmission or broadcast, in pre-recorded media such as audiotape, videotape, CD, podcast, CD-ROM, DVD, self-paced computer-based instruction, or another format, which has an interactive component and is approved by the OPR. The Language Access in the Courts Advisory Committee will develop guidelines governing approved unmoderated activity. The OPR may request additional information on a program for which continuing education credit is sought, and may refer the program to a panel of the Language Access in the Courts Advisory Committee for a decision as to whether the program should be approved.

**47.7(3) Carryover of continuing education hours.** Up to six hours of continuing education may be carried over from one reporting period into the next reporting period. There will be no carryover of hours beyond one reporting period, and ethics credits may not be carried over except as regular credit hours.

**47.7(4) Late filing of report; penalty and suspension.** Interpreters who miss the May 15 deadline may file their annual reports on or before August 15, but they must assert good cause for failing to meet the deadline and pay the annual report fee in rule 47.7(1)(b) plus a late fee of \$35. Court interpreters who fail to file their reports on or before August 15 will have their names removed from the Iowa roster of court interpreters and their certified status, if any, suspended.

**47.7(5) Agreement on extension; suspension.** Court interpreters who file a report on or before August 15 but cannot report sufficient continuing education hours may apply to the OPR for permission to complete the missing continuing education hours on or before November 15. Court interpreters who do not report sufficient continuing education hours under this rule and do not complete any required continuing education under an agreement with the OPR will have their names removed from the Iowa roster of court interpreters and their certified status, if any, suspended.

**47.7(6) Application for reinstatement.** An interpreter who has been suspended for failure to comply with the reporting requirements of rule 47.7(1) may file an application for reinstatement of the interpreter's name to the Iowa roster of court interpreters and of the interpreter's certified status, if applicable. The application must be filed with the OPR and include payment of a \$100 reinstatement fee. The interpreter must file all missing reports, show that all required continuing education hours have been obtained, and pay any unpaid filing fees. The interpreter must also swear

or affirm that the interpreter did not provide interpreting services in any legal or court proceeding during the suspension period. The OPR may determine whether any additional conditions for reinstatement are necessary.

**47.7(7) Certificate of exemption.** An interpreter may request a certificate of exemption from the continuing education requirements of this rule. When a certificate of exemption is issued, the interpreter's name will be removed from the Iowa roster of court interpreters. The interpreter may seek reinstatement following exemption under the provisions of rule 47.7(6). If the exemption period exceeds five years, the interpreter may be required to retake the interpreter orientation program and any testing the OPR determines is necessary for reinstatement.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; May 18, 2015, effective July 1, 2015]

**Rule 47.8 Application, test registration, and continuing education fees.**

**47.8(1)** The application fee to be an oral or sign language court interpreter is \$25. This fee cannot be waived or refunded.

**47.8(2)** The registration fee for the two written examinations identified in rule 47.4(1)(a) is \$50 for Iowa residents and \$100 for nonresidents. If the applicant has already passed at least one of the two examinations, the registration fee is \$25 for Iowa residents and \$50 for nonresidents.

**47.8(3)** The registration fee for each oral proficiency interview examination is \$65 for Iowa residents and \$130 for nonresidents.

**47.8(4)** The registration fees for the three-part oral interpretation certification examination approved by the NCSC's Language Access Services Division is \$250 for Iowa residents and \$500 for nonresidents.

**47.8(5)** The annual continuing education reporting fee is \$10.

**47.8(6)** All fees set forth in this rule must be paid to the OPR. The interpreter application fee is due at the time the application is filed. Test registration fees are due on or before the registration deadline established by the OPR. The annual continuing education reporting fee is due by May 15 of each year beginning in 2017.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; May 18, 2015, effective July 1, 2015]

**Rule 47.9 Language Access in the Courts Advisory Committee.** The Iowa Supreme Court will appoint a Language Access in the Courts Advisory Committee (advisory committee) to provide guidance to the state court administrator regarding language access policies in the courts and to assist the OPR in administering the continuing education and disciplinary systems for court interpreters and translators.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

**Rule 47.10 Complaint and disciplinary process.**

**47.10(1) Purpose.** These rules establish a complaint and disciplinary process that ensures due process for court interpreters and translators formally accused of misconduct under rule 47.10(5).

**47.10(2) Applicability.** These rules apply to the delivery of services by oral and sign language interpreters or translators in any legal proceeding, court-ordered program, or office of the Iowa Judicial Branch. These rules also apply to real-time reporters when providing language access to court users.

**47.10(3) Procedures for complaints against oral language court interpreters or translators.**

*a. Complaints.* A complaint against a court interpreter or a translator must be filed with the OPR on a form available from that office or through the Iowa Judicial Branch website. A complaint must be signed by the complainant, provide the complainant's full address, telephone number, and email address, if any, and contain substantiating evidence supporting the complaint.

*b. Review of complaints.* The OPR will review all complaints and may seek additional information from the complainant if necessary. The OPR will refer the complaint to the chair of the advisory

committee. The chair will appoint a panel of at least three advisory committee members to consider the complaint.

*c. Dismissal of complaints.* The advisory committee panel may dismiss the complaint without further action if it appears the complaint wholly lacks merit, alleges conduct that does not constitute misconduct or rise to the level of a disciplinary violation under the Code of Professional Conduct for Court Interpreters and Translators, or does not comply with the requirements for a complaint or is not supplemented as requested. In such instances, the OPR will notify the complainant of the advisory committee panel's decision. The advisory committee panel's summary dismissal is not subject to review.

*d. Responses to complaints.* If the advisory committee panel does not dismiss the complaint, the OPR will notify the interpreter or translator of the complaint and direct the interpreter or translator to provide a written response to the complaint within 21 days after notice of the complaint is issued. A failure to file a timely response or obtain an extension of time in which to do so will be deemed an admission of the interpreter or translator to the facts alleged in the complaint. The OPR may forward the interpreter's or translator's response to the complainant and allow the complainant to file a reply within 14 days after service of the response. After all responses have been received, or the time for filing responses has expired, the advisory committee panel may summarily dismiss the complaint pursuant to rule 47.10(3)(c) or assign the matter for further investigation. If the complaint is dismissed, the OPR will notify the complainant and the interpreter or translator of the advisory committee panel's decision.

*e. Advisory committee action.* If the advisory committee panel does not dismiss the complaint, the panel will review the complaint upon the papers filed unless the interpreter or translator requests a hearing or the panel determines that a hearing is necessary.

*f. Hearing and decision.*

(1) *Time and format of hearing.* A hearing will be scheduled to occur within 60 days after the complaint is assigned to the advisory committee panel. The hearing will be informal and strict rules of evidence will not apply. During the hearing, the interpreter or translator has the right to be represented by counsel at the interpreter's or translator's expense, to confront and cross-examine witnesses, and to present evidence. The attorney general or the attorney general's designee may present evidence in support of the complaint at the hearing, except to the extent that facts have been deemed admitted under rule 47.10(3)(d).

(2) *Location, subpoenas, and recording.* The hearing will be held in the county where the interpreter or translator resides or where the alleged violation occurred unless the OPR and the interpreter or translator agree otherwise. An advisory committee panel member, the interpreter or translator, or the attorney general or the attorney general's designee may request the clerk of the district court of the county in which the disciplinary hearing is to be held to issue subpoenas in connection with the matter, and the clerk will issue the subpoenas. Any member of the advisory committee panel is empowered to administer oaths or affirmations to all witnesses. The hearing will be recorded electronically, unless the interpreter or translator pays for a court reporter and the subsequent transcript, if necessary.

(3) *Burden of proof.* Any grounds for discipline under rule 47.10(5) must be shown by a convincing preponderance of the evidence.

(4) *Advisory committee panel actions.* The advisory committee panel may:

1. Dismiss the complaint.
2. Impose a private admonition.
3. Enter into a stipulated disposition with the interpreter.
4. Impose a public reprimand.
5. Require the interpreter to refund fees to a client for court interpreter services.
6. Require that the interpreter take specified education courses.
7. Suspend or revoke the interpreter's roster status or certification, if any.
8. Suspend or bar the interpreter from interpreting in legal proceedings or court-ordered programs, or both.

(5) *Advisory committee panel decision.* Within 60 days after the hearing, the advisory committee panel will file a written decision with the OPR. The OPR will promptly serve a copy of the decision on the interpreter or translator by restricted certified mail.

*g. Petition for review.* The interpreter or translator may file a petition for review of the advisory committee panel's decision with the Iowa Supreme Court. The petition for review must be filed with

the clerk of the supreme court within 30 days after the OPR serves the decision on the interpreter or translator. The interpreter or translator must serve a copy of the petition and any attachments on the OPR and any attorneys appearing in the disciplinary proceeding. The petition must state all claims of error that were raised before the panel and the reasons for challenging the panel's determination before the supreme court. The petition must be accompanied by a \$150 filing fee. The OPR will transmit the complete record in the case to the clerk of the supreme court.

*h. Submission and decision on review.* Unless the supreme court orders otherwise, the petition will be submitted based upon the record previously made and without oral argument. After considering the record, the court may sustain or deny the petition or enter such other appropriate order. The court's order is conclusive, and no petition for rehearing is permitted.

*i. Costs.* Costs of the disciplinary proceeding will be assessed against the interpreter or translator for any private admonition, public sanction, or any agreed disposition that taxes costs against the interpreter or translator. For purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to Iowa Code chapter 625, including but not limited to expert witness fees, and translation, transcription, and interpreter fees. The interpreter or translator must pay the costs as a condition for reinstatement.

*j. Application for reinstatement.* An interpreter or translator may file an application for reinstatement from an order suspending or revoking a certification, roster status, or privilege of interpreting or translating in court. The application must be filed with the OPR and include payment of a \$100 reinstatement fee. The application must be served upon the clerk of the supreme court, all attorneys appearing in the underlying disciplinary proceeding, the state court administrator, and the chief judge of the judicial district in which the interpreter or translator resides. The application must show that all conditions for reinstatement imposed in the panel's decision or any resulting supreme court decision have been satisfied, the interpreter or translator is currently fit to interpret or translate in court, and all costs have been paid. The interpreter or translator must also swear or affirm that the interpreter or translator did not provide interpreting or translating services in any legal or court proceeding during the suspension period.

*k. Reinstatement decision.* The OPR will forward the application for reinstatement to the full advisory committee. The committee may direct that reinstatement be granted, set the matter for hearing, or enter such other disposition or order as the matter requires.

*l. Confidentiality.*

(1) All records, papers, proceedings, meetings, and hearings of the advisory committee panel are confidential, unless the panel imposes the following: a public reprimand; a suspension or revocation of a certification, roster status, or privilege to interpret or translate before the courts; a requirement that fees be refunded to a client for court services; or a form of discipline that the panel and the interpreter or translator agree should be made public.

(2) If the advisory committee panel imposes public discipline, the decision and the complaint filed with the OPR will become public documents upon filing with the clerk of the supreme court.

(3) Any other records and papers concerning any complaint against an interpreter or translator will remain privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the interpreter or translator, the attorneys, or the attorneys' agents involved in the disciplinary proceeding before the advisory committee panel. The interpreter or translator, the attorneys, or the attorneys' agents involved in the disciplinary proceeding before the panel may not disclose to any third parties any records and papers of the advisory committee or advisory committee panel concerning any complaint unless disclosure is required in the prosecution or defense of disciplinary charges. The confidential records and papers concerning any complaint are not admissible as evidence in a judicial or administrative proceeding other than the formal interpreter or translator disciplinary proceeding under this rule.

(4) Every witness in every disciplinary proceeding under rule 47.10 must swear or affirm to tell the truth and not to disclose the existence of the disciplinary proceedings or the identity of the interpreter or translator until the disciplinary proceeding is no longer confidential under these rules.

(5) Any communications, papers, and materials concerning any complaint that may come into the possession of a committee member is confidential, and the member must keep such confidential material in a safe and secure place.

(6) Nothing in this rule prohibits the advisory committee or an advisory committee panel from releasing any information regarding possible criminal violations to appropriate law enforcement

authorities, wherever located, or to interpreter or translator disciplinary and admission authorities in other jurisdictions.

*m. Temporary suspension.* Notwithstanding the provisions of this rule, the state court administrator may temporarily suspend the right of any interpreter or translator to interpret or translate in legal proceedings, court-ordered programs, and offices of the Iowa Judicial Branch upon a showing of a clear violation of the Iowa Code of Professional Conduct for Court Interpreters and Translators and of exigent circumstances demonstrating that the interpreter or translator currently lacks the capacity to interpret court proceedings or translate court documents. Any order suspending an interpreter's or translator's right to interpret or translate in Iowa courts must provide the interpreter or translator with an opportunity to appear before the supreme court and show cause why the temporary suspension order should be lifted.

**47.10(4) Procedures for complaints against sign language court interpreters.**

*a. Complaints.* A complaint against a sign language court interpreter must be filed with the Iowa Board of Sign Language Interpreters and Translators (board) and must follow the procedures outlined in Iowa Administrative Code 645—Chapter 363, Discipline for Sign Language Interpreters and Translators.

*b. Notice to the OPR.* A sign language interpreter who receives a notice from the board that a complaint has been filed against the interpreter must promptly provide written notice to the director of the OPR that a complaint has been filed against the interpreter, including the date the complaint was filed and a description of the alleged misconduct. The interpreter also must promptly provide written notice to the director of the OPR after the disciplinary process has been concluded, including the date and type of disposition. A sign language interpreter's failure to provide these notices will be considered grounds for disciplinary action and a disciplinary process may be commenced under procedures in rule 47.10(3).

**47.10(5) Grounds for discipline.** The following actions may constitute misconduct for which a court interpreter may be subject to discipline:

- a.* Violation of the Code of Professional Conduct for Court Interpreters and Translators.
- b.* Conviction of a felony in this state or any other jurisdiction or conviction of a lesser crime that involves dishonesty or moral turpitude. A crime is a felony if it is so defined in the jurisdiction where the conviction was entered at the time of the conviction.
- c.* Disciplinary action involving the interpreter's services in another jurisdiction.
- d.* Discipline by the Board of Sign Language Interpreters and Translators pursuant to Iowa Administrative Code section 645—Chapter 363.
- e.* Providing incompetent interpretation, which includes, but is not limited to, repeated incomplete or inaccurate interpretation that significantly inhibits or distorts communications between an LEP person and the court or between an LEP person and that person's attorney.
- f.* Dishonest billing for interpreter or translator services.
- g.* Engaging in prohibited interpreting while suspended. This action may subject an interpreter to additional discipline.

**47.10(6) Aggravating or mitigating circumstances.** When determining the appropriate discipline for interpreter misconduct, the advisory committee panel may consider factors that include, but are not limited to, the following:

*a. Aggravating circumstances.* Aggravating circumstances that may justify an increase in the degree of discipline imposed include, but are not limited to:

- (1) Prior disciplinary offenses.
- (2) Dishonest or selfish motive.
- (3) A pattern of misconduct.
- (4) Multiple offenses.
- (5) Bad faith obstruction of the disciplinary proceeding.
- (6) Submission of false evidence, false statements, or other deceptive practices during disciplinary process.

- (7) Refusal to acknowledge wrongful nature of misconduct.
- (8) Harm caused by the misconduct.
- (9) Substantial experience as a court interpreter.

*b. Mitigating circumstances.* Mitigating circumstances that may justify a reduction in the degree of discipline imposed include, but are not limited to:

- (1) Absence of a prior disciplinary record.

- (2) Absence of a dishonest or selfish motive.
- (3) Personal or emotional problems contributed to the misconduct.
- (4) Timely good faith effort to rectify consequences of the misconduct.
- (5) Full and free disclosure to the advisory committee panel or cooperative attitude toward proceedings.
- (6) Inexperience as a court interpreter.
- (7) Character or reputation.
- (8) Physical or mental disability or impairment.
- (9) Interim rehabilitation.
- (10) Remorse.
- (11) Substantial time since the prior offense(s).

**47.10(7) *Duty to disclose.*** A court interpreter or translator must disclose to the OPR any potentially disqualifying criminal or ethical misconduct as defined in rule 47.2(1)(c)(3).

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

### **Rule 47.11 Recording of court proceedings.**

**47.11(1) *Interpreted testimony and communication with a judicial officer.*** The court will make appropriate electronic recordings of those portions of court proceedings when an interpreter is required for testimony that is given in a language other than English and when an interpreter is required for communication between a judicial officer and a participant who speaks a language other than English.

*a. Oral language interpreters.* For court proceedings involving oral language interpretation, the court will use an electronic audio or audio-video recorder to meet this recording requirement.

*b. Sign language interpreters.* For court proceedings involving a sign language interpreter, the court will make an audio-video recording of a full and clear view of the sign language interpreter and the LEP deaf, deaf-blind, or hard-of-hearing person.

**47.11(2) *Retention of recordings.*** For small claims, civil infractions, simple misdemeanors, and uniform traffic citation cases, the recording must be maintained for one year after entry of judgment or sentence in district court or, if the judgment is appealed, one year after entry of the final judgment on appeal. For all other cases, the recording must be maintained for the same duration as court reporters' notes as set forth in Iowa Code section 602.8103.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

### **Rule 47.12 Court interpreter and translator compensation.**

**47.12(1) *Claims for compensation.*** After providing services in any legal proceeding or court-ordered program for which an interpreter or translator will be paid by a state or county office, the interpreter or translator must submit a claim for compensation to the court using a fee claim form approved by the state court administrator. Upon review and approval of the claim, the court will enter an order setting the maximum amount of compensation that may be paid to the interpreter or translator.

**47.12(2) *Policies for compensation of court interpreters and translators.*** The state court administrator will establish standard statewide fees and policies for compensation of court interpreters and translators who are paid by government entities. Government entities other than the courts that pay court interpreters and translators may adopt compensation policies that do not conflict with state court administrator policies.

[Court Order February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

### **Rule 47.13 Written translations of court-related material.**

**47.13(1) *Definition of court-related materials.*** As used in rule 47.13, "court-related material" includes written documents that are relevant to the court case and electronically recorded oral or sign communications in which one or more of the participants has limited English proficiency and the communications are relevant to the court case.

**47.13(2) *Definition of a certified translator.***

a. A certified translator has met the requirements for translator certification established by the American Translators Association (ATA) or the National Association of Judiciary Interpreters and Translators (NAJIT).

b. A Class A certified court interpreter under rule 47.4(1) is not a certified translator of written documents unless the interpreter has also completed the requirements established by the ATA or NAJIT to be a certified translator.

**47.13(3) *Priorities in the appointment of a translator of court-related material.*** When a translator of court-related material is needed, the court will appoint a translator in the following order of preference:

a. Certified as a translator by the ATA or NAJIT in the required language combination (e.g., Spanish to English translation);

b. A Class A certified oral language court interpreter as defined in rule 47.4(1); and

c. If there is no person available who meets the qualifications in rule 47.12(2)(a) or (b) and who could deliver the translated material through regular or electronic mail by the required date, the court may approve a translator who has a degree from a four-year college or university and has sufficient knowledge and experience as a translator of English and the other required language to provide a complete and accurate written translation of the court-related material.

**47.13(4) *Compensation of a translator.*** A translator whom the court appoints under rule 47.13(3) will receive the standard fee per word or per hour depending on the material to be translated. The standard translation fees will be established in an administrative directive by the state court administrator pursuant to rule 47.12(2). The court may approve a higher fee only if the court is unable to locate a qualified translator who is able to send and receive court-related materials via electronic mail, can perform the requested translation services by the required date, and will provide the translation service for the standard fee established by the state court administrator. A translator approved under this rule must submit a claim for compensation consistent with rule 47.12(1).

**47.13(5) *Application for written translation of a court-related material.*** When a party or attorney in a case involving an LEP person wants a written translation of court-related material from English into another language, or from another language into English, and the court or other government entity will be responsible for paying the translator, the LEP person or the LEP person's attorney must file with the court a timely application for a written translation of the court-related material. The application must include:

a. An explanation of the need for a written translation of the court-related material and why an oral or sign language interpretation of the court-related material would not be sufficient to ensure due process under the circumstances.

b. The name, contact information, qualifications, and certifications of the proposed translator.

c. The number of words in the document to be translated, or the number of minutes of recorded communication involving one or more LEP persons, the hourly fee or fee per word to be paid to the translator, and the total translation fee to be paid to the translator.

**47.13(6) *Court approval of written translation and translator.*** The court may approve the application for the written translation of court-related material only if an oral or sign language interpretation of the material would not be sufficient to ensure due process under the circumstances. If the court approves a written translation of court-related material, the court may approve the translator identified in the application if the translator meets the criteria in rule 47.13(3), or the court may decline to appoint the translator identified in the application and appoint a substitute translator by applying the criteria in rule 47.13(3).

[Court Order June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

**Rule 47.14 Application of rules to administrative agency proceedings.** To the extent an administrative agency is subject to these rules pursuant to Iowa Code section 622A.7 or 622B.1(2), the agency is responsible for appointing interpreters to appear in agency proceedings and for approving interpreters' claims for compensation.

[Court Order December 4, 2014, effective July 1, 2015]

#### **Rule 47.15 Administration.**

**47.15(1)** The OPR assistant director for admissions will serve as the principal executive officer for matters pertaining to the qualifications, classification, examination, continuing education, and discipline of court interpreters. The OPR director may, subject to the approval of the supreme court,

employ such other employees as may be necessary to carry out the duties of this chapter of the Iowa Court Rules.

**47.15(2)** At least 60 days prior to the start of each fiscal year, the director of the OPR will submit to the supreme court for consideration and approval a budget for the upcoming fiscal year covering the operations provided for in this chapter. The supreme court's approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the court interpreter operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement will be deposited in the court interpreter operating account for payment of the expenditures authorized by the approved budget.

[Court Order December 4, 2014, effective July 1, 2015]

**Rule 47.16 Immunity.**

**47.16(1) *Claims.*** Claims against the OPR director, assistant directors, and staff, or against members of the advisory committee, are subject to the State Tort Claims Act set forth in Iowa Code chapter 669.

**47.16(2) *Immunity.*** The OPR director, assistant directors, and staff and members of the advisory committee are immune from all civil liability for damages for the conduct, communications, and omissions occurring in the performance of and within the scope of their official duties under these rules.

**47.16(3) *Qualified immunity.*** Records, statements of opinion, and other information regarding an interpreter that are communicated by an entity, including any person, firm, or institution, without malice, to the OPR director, assistant directors, and staff, and the members of the advisory committee are privileged; civil suits for damages predicated thereon may not be instituted.

[Court Order December 4, 2014, effective July 1, 2015]



**CHAPTER 48**  
**CODE OF PROFESSIONAL CONDUCT FOR COURT**  
**INTERPRETERS AND TRANSLATORS**

PREAMBLE

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**CHAPTER 48**  
**CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS**  
**AND TRANSLATORS**  
[Prior to April 1, 2008, see Chapter 15]

PREAMBLE

Effective and accurate language assistance may be necessary to ensure access to justice for all persons. Qualified interpreters and translators are highly skilled professionals who provide accurate language assistance during legal proceedings.

APPLICABILITY

The Code of Professional Conduct for Court Interpreters and Translators (Code of Conduct) governs the delivery of services by oral and sign language interpreters and translators in legal proceedings or in offices of the Iowa Judicial Branch. This Code of Conduct describes the role and defines the duties of interpreters, enhancing the administration of justice and promoting public confidence in the legal system. The canons apply to oral and sign language interpreters and translators and also to real-time court reporters providing language access to deaf or hearing-impaired persons who can read English. The comments guide the conduct of interpreters but should be read broadly to guide the conduct of translators and real-time court reporters when applicable.

DEFINITIONS

Throughout this chapter:

(1) *Court interpreter or interpreter.* A “court interpreter” or an “interpreter,” as used in this chapter, means an oral or sign language interpreter who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a legal proceeding.

(2) *Court proceeding.* A “court proceeding” is any action before a state court judicial officer that has direct legal implications for any person.

(3) *Legal proceeding.* “Legal proceeding,” as used in this chapter, includes any court proceeding, any deposition conducted in preparation for a court proceeding, any case settlement negotiation in an existing court case, and any attorney-client communication necessary for preparation for a court proceeding in an existing court case.

(4) *Limited English proficient (LEP) participant or person.* An “LEP participant or person” has a limited ability to speak, read, write, or understand English because the person’s primary language is not English or because the person is deaf, deaf-blind, or hard-of-hearing.

(5) *Sight translation.* “Sight translation” is the act of transferring verbally, or through the use of sign language, the meaning of written text in one language into the equivalent meaning in another language.

(6) *Source language.* “Source language” is the spoken, written, or signed communication that an interpreter or translator is to transfer into the equivalent meaning in another language, which is the “target language.”

(7) *Target language.* “Target language” is the language into which a text, document, or speech is translated.

(8) *Translator.* A “translator,” as used in this chapter, accurately transfers the meaning of written, oral, or signed words and phrases in one language into the equivalent meaning in written words and phrases of a second language, or accurately produces a written transcript in English of electronically recorded testimony or other court communication in which one or more of the participants has limited English proficiency.

## COMMENTS

The Comments describe basic principles of the Code of Conduct. If a court policy or routine practice appears to conflict with any provision of the Code of Conduct, including the Comments, the policy or practice as it applies to interpreters should be reviewed for modification.

## CANON 1

## ACCURACY AND COMPLETENESS

An interpreter must render a complete and accurate interpretation or sight translation by reproducing in the target language the closest natural equivalent of the source language message, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

**Comment to Canon 1.***Qualifications of an interpreter in a legal proceeding.*

To fulfill the obligation to interpret completely and accurately in a legal proceeding, an interpreter should have college-level vocabularies, including legal terms and slang, in English and at least one other language. An interpreter must also have exceptional memory and verbal skills and should have training in legal interpreting.

*Role of an interpreter in a legal proceeding.*

The primary role of an interpreter in a legal proceeding is twofold: To ensure that communications of an LEP participant are completely and accurately expressed in English and that communications of an English proficient participant are completely and accurately expressed in the oral or sign language the LEP participant understands.

An interpreter should apply the interpreter's best skills and judgment to preserve the meaning of what is communicated as faithfully as possible without adding or omitting words or phrases. The interpreter should express the style or register of speech, the ambiguities and nuances of the speaker, and the level of language that best conveys the original meaning of the source language, even if the LEP participant does not completely understand that level of language. Verbatim, "word for word," or literal oral interpretations are *inappropriate* when they distort the meaning of what was said in the source language. However, all spoken statements, including misstatements, should be interpreted, even if they appear non-responsive, obscene, rambling, or incoherent.

Sometimes, a speaker in a court proceeding might use a term or phrase that has no direct equivalent in the target language. When this occurs, the interpreter should ask the judicial officer's permission to explain the situation, and then offer the most accurate interpretation possible under the circumstances. If this situation arises in a legal proceeding without a judicial officer present, the interpreter should inform the attorney(s), or the supervisor of the activity if no attorney is involved, about the language issue, and then offer the most accurate interpretation possible under the circumstances.

An oral language interpreter should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions, or dramatic gestures. A sign language interpreter, however, must employ all of the visual cues that the language being interpreted requires, including facial expressions, body language, and hand gestures. Judicial officers should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate interpreter conduct. Any challenge to the interpreter's conduct should be directed to the judicial officer.

The obligation to preserve accuracy includes the interpreter's duty to correct any errors of interpretation discovered during the proceeding. An interpreter should demonstrate professionalism by objectively analyzing any challenge to the interpreter's performance.

*Preparation by an interpreter for a legal proceeding.*

The ethical responsibility to interpret accurately and completely includes the responsibility of properly preparing for interpreting assignments. An interpreter is encouraged to obtain public documents and other public information necessary to become familiar with the nature and purpose

of a proceeding. Prior preparation is especially important when testimony or documents are likely to include highly specialized terminology and subject matter.

To avoid any impropriety, or even the appearance of impropriety, an interpreter should seek permission of the court before conducting any preparation involving access to confidential information. Courts may grant such permission when it is necessary for the interpreter to discharge the interpreter's professional responsibilities.

Preparation may include, but is not limited to, the following:

(1) Reviewing public documents in the court file, such as motions and supporting affidavits, witness lists, and jury instructions; the criminal complaint, information, and preliminary hearing transcript in a criminal case; and the summons, petition, and answer in a civil case;

(2) Reviewing information from public sources such as dictionaries, newspapers, online case records, or internet sites;

(3) Reviewing documents in the possession of counsel, such as police reports, witness summaries, deposition transcripts, and presentence investigation reports;

(4) Contacting any other interpreters involved in the case for information on language use or style;

(5) Contacting attorneys involved in the case for additional information on anticipated testimony or exhibits; or

(6) Anticipating and discussing interpreting issues related to the case with the judicial officer, but only in the presence of counsel for all parties unless the court directs otherwise.

*Team interpreting in a legal proceeding.*

When engaging in team interpreting, but not actively interpreting, the support interpreter must remain attentive during the proceeding to assist the active interpreter as needed to ensure the accuracy of interpretation. If the support interpreter believes the active interpreter's interpretation should be corrected, the support interpreter should ask the judicial officer's permission to discuss an interpretation issue with the active interpreter. If necessary, the active interpreter should then correct the interpretation for the record.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; May 18, 2015, effective July 1, 2015]

## CANON 2

### REPRESENTATION OF QUALIFICATIONS

An interpreter must accurately and completely represent the interpreter's certification, education, interpreter training, classification on the Iowa roster of court interpreters, and interpreting experience.

#### **Comment to Canon 2.**

By accepting an interpreting assignment in a legal proceeding, an interpreter asserts linguistic competency in legal settings and familiarity with courtroom and legal proceeding protocols. Withdrawing, or being asked to withdraw, after a court proceeding has begun is disruptive and wasteful of scarce public resources. It is essential an interpreter present a complete and truthful account of the interpreter's education, interpreter training, certification, classification (if any) on the Iowa roster of court interpreters, and interpreting experience prior to appointment, so the judicial officer can fairly evaluate the interpreter's qualifications for delivering interpreting services.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 3**IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST*

An interpreter must be impartial and unbiased and must refrain from conduct that may give an appearance of bias. An interpreter must disclose any real or perceived conflict of interest.

**Comment to Canon 3.**

The primary duty of a court interpreter is to be a neutral facilitator of accurate communication between an LEP person and the other English speaking participants in a legal proceeding.

An interpreter should avoid any conduct or behavior that presents the appearance of favoritism toward anyone during a legal proceeding. An interpreter should maintain a professional relationship with LEP participants, discourage dependence on the interpreter, and refrain from casual or personal conversation or interaction.

An interpreter should strive for professional detachment by avoiding verbal and nonverbal displays of personal attitudes, prejudices, emotions, or opinions.

An interpreter must not solicit or accept any payment, gift, or gratuities in addition to the interpreter's customary fees.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judicial officer, or if the legal proceeding is outside of court, to all attorneys involved in the proceeding. An interpreter should only divulge necessary information when disclosing the conflict of interest. The disclosure must not include privileged or confidential information. The following circumstances create potential conflicts of interest that a court interpreter must disclose:

(1) The interpreter is a friend, associate, or relative of a party, counsel for a party, a witness, or a victim (in a criminal case) involved in the proceedings;

(2) The interpreter or the interpreter's friend, associate, or relative has a financial interest in the subject matter in controversy, a shared financial interest with a party to the proceeding, or any other interest that might be affected by the outcome of the case;

(3) The interpreter has served in an investigative capacity for any party involved in the case;

(4) The interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;

(5) The interpreter is an attorney or witness in the case;

(6) The interpreter has previously been retained for employment by one of the parties; or

(7) For any other reason, the interpreter's independence of judgment would be compromised in the course of providing services.

The judicial officer should carefully evaluate any potential conflict, but the existence of only one of the above circumstances will not automatically disqualify an interpreter if the interpreter is able to render services objectively. The interpreter should disclose to the judicial officer any indication that the recipient of interpreting services views the interpreter as being biased. If an actual or apparent conflict of interest exists, the judicial officer should decide whether removal is appropriate based upon the totality of the circumstances.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 4**PROFESSIONAL INTEGRITY AND DEMEANOR*

An interpreter must act honestly and professionally, in a manner consistent with the dignity of the court.

**Comment to Canon 4.**

An interpreter must be honest and trustworthy in all interactions with the court and all other participants and agencies involved in legal proceedings. For example, an interpreter must appear when scheduled to provide services, promptly report to an appropriate authority when a scheduling conflict arises, and accurately report time and expenses for interpreting services.

An interpreter should avoid personal or professional conduct that could dishonor the interpreter, the court, or the legal system. For example, an interpreter must never take advantage of knowledge obtained in the performance of duties or through access to court records, facilities, or privileges for the interpreter's or another person's personal gain.

An interpreter also should know and observe the established protocol, rules, and procedures for delivering interpreting services, and should dress in a manner that reflects the conventions of appropriate attire for professionals who appear in legal proceedings. When interpreting for an LEP witness and speaking in English, an interpreter should speak at a rate and volume that is audible and understandable throughout the courtroom. An interpreter should be as unobtrusive as possible and should not seek to attract inappropriate attention while performing the interpreter's professional duties. This includes any time the interpreter is present but not actively interpreting.

An interpreter should avoid obstructing the view of anyone involved in the proceedings, but should be appropriately positioned to facilitate communication. An interpreter who uses sign language or other visual modes of communication must be positioned so that signs, facial expressions, and whole body movements are visible to the person for whom the interpreter is interpreting. When necessary, the interpreter should be repositioned to accommodate visual access to exhibits.

An interpreter should avoid personal or professional conduct that could dishonor the court.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 5**CONFIDENTIALITY*

An interpreter must protect the confidentiality of all privileged and other confidential information. An interpreter may disclose information that would otherwise be privileged or confidential to the extent such disclosure is necessary to prevent imminent death or bodily harm.

**Comment to Canon 5.**

An interpreter must uphold the confidentiality of any communications between attorney and client and must refrain from repeating or disclosing information obtained in the course of the interpreter's employment.

An interpreter must accompany an LEP juror into the jury room and interpret for jury deliberations. When this occurs, the interpreter must be neutral, must not participate in jury deliberations, and must not disclose or comment upon jury deliberations.

An interpreter providing services to an LEP party may disclose information obtained while providing interpreter services if the interpreter is reasonably certain that such disclosure is necessary to prevent imminent death or bodily harm. If the LEP party is represented by an attorney, the disclosure must be made to the party's attorney. If the LEP party is not represented by an attorney, the disclosure must be made to the presiding judicial officer or other appropriate authority if the judicial officer is not available.

An interpreter providing services to an LEP person who is not a party may disclose information obtained while providing interpreter services if the interpreter is reasonably certain that such disclosure is necessary to prevent imminent death or bodily harm. The disclosure must be made to the presiding judicial officer or another appropriate authority if the judicial officer is not available.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 6**RESTRICTION OF PUBLIC COMMENT*

An interpreter must not publicly discuss, report, or offer an opinion concerning a matter in which the interpreter is or has been engaged, even when that information is not privileged or required by law to be confidential, except to facilitate training and education.

**Comment to Canon 6.**

Generally, an interpreter should not discuss interpreter assignments with anyone other than persons who have a formal duty associated with the case. For purposes of interpreter education and training, however, an interpreter may share information only about cases in which a final judgment has been entered and may divulge only as much information as is required to accomplish this purpose. Unless so ordered by a court or permitted under Canon 5, an interpreter must never reveal privileged or confidential information for any purpose, including training and education.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 7**SCOPE OF PRACTICE*

An interpreter for an LEP participant in any legal proceeding, or for an LEP party in a court-ordered program, must provide only interpreting or translating services. The interpreter must not give legal advice, express personal opinions to individuals for whom interpreting services are being provided, or engage in other activities that may be construed to constitute a service other than interpreting or translating.

**Comment to Canon 7.**

Since an interpreter is responsible only for enabling others to communicate, the interpreter should limit the interpreter's conduct to interpreting or translating. An interpreter, however, may initiate communications during a proceeding if direction from the court is necessary to perform the interpreter's duties. Examples of such circumstances include: seeking direction from the court when unable to understand or express a word or thought; requesting speakers to adjust their rate of speech or to repeat or rephrase something; correcting the interpreter's errors; or notifying the court of concerns about the interpreter's ability to fulfill an assignment competently. In such instances, the interpreter must make it clear the interpreter is speaking on his or her own behalf.

An interpreter may convey legal advice from an attorney to a person only while that attorney is giving it. An interpreter should not explain the purpose or contents of forms or services, or otherwise act as a counselor or an advisor, unless the interpreter is interpreting for someone who is acting in that official capacity. An interpreter may interpret or translate language on a form or instructions for the form for an LEP person who is filling out the form. However, the interpreter must not explain the form or answer questions about it, although an interpreter may interpret for a court official who is authorized to answer questions about a court form. In general, an interpreter should not perform functions that are the responsibility of attorneys or court officials.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 8**ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE*

An interpreter must assess at all times the interpreter's ability to competently and ethically deliver interpreting services. When an interpreter has any concern about the interpreter's ability to competently and ethically provide services or about interference with or impediments to providing competent and ethical services, the interpreter must immediately report that concern to an appropriate authority.

**Comment to Canon 8.***Impediments to competent performance*

If the communication mode or language variety of the LEP person cannot be readily interpreted, the interpreter should notify the appropriate authority, such as a judicial officer, an attorney, or another person with authority over the proceeding.

An interpreter should notify the appropriate authority of any circumstances (e.g., environmental or physical limitations) that impede the ability to deliver interpreting services adequately. For example, these circumstances may include that the courtroom is not sufficiently quiet for the interpreter to hear or be heard by the LEP person, more than one person is speaking at the same time, or a person is speaking too quickly for the interpreter to accurately interpret. A sign language interpreter must ensure that the interpreter can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movements, as well as hand gestures. A sign language interpreter must also ensure that the LEP person can see the interpreter clearly.

An interpreter should notify the judicial officer or other appropriate authority of the need to take periodic breaks in order to maintain mental and physical alertness and prevent interpreter fatigue. An interpreter should inform the judicial officer when the use of team interpreting is necessary.

Even a competent and experienced interpreter may encounter situations where routine proceedings unexpectedly involve slang, idiomatic expressions, regional dialect, or technical or specialized terminology unfamiliar to the interpreter (e.g., the unscheduled testimony of an expert witness). When such situations occur, the interpreter should request a brief recess in order to become familiar with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, the interpreter should inform the judicial officer, or if the legal proceeding is outside of court, the interpreter should inform all attorneys involved in the proceeding.

An interpreter should refrain from accepting a case that has language or subject matter that is likely to exceed the interpreter's capabilities. An interpreter should also notify the judicial officer or other appropriate authority if the interpreter is unable to perform adequately for any reason.

*Impediments to ethical performance*

Some users of interpreting services might ask or expect the interpreter to engage in activities that are contrary to provisions in the Code of Conduct or other law, rules, or policies governing court interpreters. In this situation, an interpreter should explain the interpreter's professional obligations. If the person continues to ask or demands that the interpreter engage in such activities, the interpreter should promptly request assistance from a judicial officer or other appropriate authority to resolve the matter.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

**CANON 9*****DUTY TO REPORT CRIMINAL CONVICTIONS AND ETHICAL VIOLATIONS***

An interpreter must immediately report the interpreter's conviction of a felony or any lesser crime of dishonesty or moral turpitude to the Office of Professional Regulation of the Iowa Supreme Court (OPR). The interpreter must also immediately report to the OPR any public discipline entered against the interpreter in any jurisdiction. The failure to submit such a report may be an independent ground for discipline. An interpreter who observes another interpreter commit a serious violation of the Code of Conduct should submit a written complaint to the OPR.

**Comment to Canon 9.**

Interpreters must disclose to the OPR the types of criminal convictions and disciplinary actions that potentially constitute "disqualifying misconduct" pursuant to rule 47.2(1)(c)(3). An interpreter who observes another interpreter commit a serious violation of the Code of Conduct should file a written complaint with the OPR using the form provided by that office. Discretion should be exercised by the interpreter who observed the alleged unethical conduct when determining whether the alleged

violation was sufficiently substantial to warrant discipline. Minor or infrequent interpreting errors might be technical violations of Canon 1, but they probably would not warrant discipline. Some examples of serious ethical violations by court interpreters include: frequent failures to interpret accurately or completely in court; falsification of a claim for interpreter services; publicly discussing confidential attorney-client communications; or clearly providing legal advice to an LEP person in court.

If an interpreter doubts whether another interpreter's conduct rises to the level of a serious ethical violation, the interpreter should consider sharing her or his concerns with the other interpreter. Collaboration among interpreters working together to improve their skills is encouraged.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

## *CANON 10*

### *PROFESSIONAL DEVELOPMENT*

An interpreter must strive to become more skillful and knowledgeable and advance the profession through activities such as professional training, education, and interaction with colleagues and specialists in related fields.

#### **Comment to Canon 10.**

An interpreter should improve the interpreter's interpreting skills and knowledge of the languages in which the interpreter works professionally, including past and current trends in slang, idiomatic expression, changes in dialect, technical terminology, and social and regional dialects.

An interpreter should keep informed of all statutes, rules of court, and policies of the judiciary that govern the performance of an interpreter's professional duties.

An interpreter should seek to elevate the standards of the profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field. An interpreter should support other interpreters by sharing knowledge and expertise.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]