



ARKANSAS JUDICIARY

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## **Rule XIII. Standards And Procedures For Admission; Readmission; And Reinstatement**

The practice of law is a privilege. Admission to practice is based upon the grade made on the examination if one is taken, moral qualifications, and mental and emotional stability.

Generally

Every applicant for admission, readmission, or reinstatement, shall complete and file with the Executive Secretary (Secretary) of the Board of Law Examiners (Board) an application, verified under oath, on a form approved by the Board. The Board may conduct whatever investigation it deems appropriate as to any applicant.

Upon receipt of a petition seeking readmission to the bar after disbarment or surrender of license, the Board shall cause a public notice of pendency of the petition to be placed in a newspaper of general circulation in the State and one newspaper of local circulation. The site for publication of the local notice shall be left within the discretion of the Secretary based upon the circumstances surrounding the applicant's surrender or disbarment. These notices shall be published at least 30 days prior to the hearing or decision by the Chair of the Board (Chair) pursuant to this rule. The notice shall be in such form as designated by the Board.

Further, where an application is for readmission subsequent to disbarment or surrender of license, such application shall be subject to the limitations set forth in Section 24 - Readmission to the Bar - of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, or its successor rule.

The determination of eligibility of every applicant shall be made in accordance with this rule and the burden of establishing eligibility shall be on the applicant. The standard of proof is preponderance of the evidence.

Any proceedings at which the testimony of witnesses is being taken under oath shall be open to the public.

#### A. Initial Review

Applications for admission, readmission after disbarment or surrender, or reinstatement after suspension pursuant to Rule VII(D) of these rules, shall be reviewed by the Secretary of the Board. Any application which raises questions of eligibility based upon the standards set out in this rule shall be referred to the Chair. The Chair, applying the standards set out in this rule, shall determine whether: the applicant is eligible for admission, readmission, or reinstatement; to recommend the deferral of the admission decision; or, the Chair is unable to determine eligibility for admission, readmission, or reinstatement.

#### B. Standards

In addition to meeting all other requirements of the Rules Governing Admission to the Bar, every applicant for admission and every applicant for readmission or reinstatement of license to practice must be of good moral character and mentally and emotionally stable.

#### C. Decision of Chair - Admission, Readmission, or Reinstatement Granted

In the event the Chair determines that an applicant for admission is eligible, the Chair shall notify the Secretary, who shall certify to the Clerk of the Supreme Court (Clerk) that the applicant is eligible for admission.

In the event the Chair determines that an applicant for reinstatement is eligible, the Chair shall certify to the Clerk that the applicant is eligible for reinstatement. The Chair may condition such reinstatement upon the applicant taking the examinations as set forth in Rule IX of these rules or its successor rule.

In the event the Chair determines that an applicant for readmission after disbarment or surrender of license is eligible, the Chair shall so notify the applicant. The applicant will then be required to file a motion with the Arkansas Supreme Court as set forth in paragraph 2 of Section G of this rule. The Chair may condition such readmission upon the applicant taking the examinations as set forth in Rule IX of these rules or its successor rule.

#### D. Deferral of Admission Decision

The Chair shall annually appoint a Deferral of Admission Committee (Committee) composed of three (3) members. The committee members shall serve terms of one year subject to reappointment by the Chair. The Chair shall not be eligible to serve on the committee. The Chair shall designate the Chair of the committee.

In the event the Chair concludes that an applicant by examination might be eligible for admission absent circumstances set out hereafter, then the Chair may defer the eligibility decision and provide the applicant with the alternative of participation in a deferral of admission program (program). The circumstances which might warrant such a deferral are: an applicant currently has a condition or impairment resulting from alcohol or other chemical or substance abuse which currently adversely affects the applicant's ability to practice law in a competent and professional manner.

In such cases, the applicant shall be notified of the Chair's determination by certified, return receipt, restricted delivery mail. The applicant shall have thirty (30) days from receipt of notice in which to advise the Secretary that he or she is agreeable to participating in the program on such terms, and for such period of time, as may be set by the Committee. Failure of the applicant to timely agree to the program shall cause the application to be referred to the Board and processed as set forth in section E of this rule.

In the event an applicant elects the deferral of admission program, the committee shall secure such evidence as may be necessary to establish the terms and duration of the program. Such materials may include: documentary evidence supplied by the applicant; evidence secured by the Secretary; evidence acquired by an informal conference with members of the committee; or such other evidence as the committee may consider necessary to their decision. Prior to establishing the terms and duration of any deferral of admission program, the committee may reject the applicant as a candidate for the program. In such case, the applicant shall then be referred to the Board and processed as set forth in section E of this rule.

In the event the committee accepts the applicant as a participant in the program, then the applicant will sign an agreement with the committee which sets forth the terms and duration of the program. All expenses relating to the program shall be borne by the applicant, and this shall be part of the agreement. In the event the applicant does not sign the agreement within thirty (30) days of notification thereof, the deferral of admission for that applicant shall be deemed to have been waived. The applicant shall then be referred to the Board for disposition in accord with section E of this rule.

The deferral agreement may continue for a period not to exceed two (2) years.

At the conclusion of the deferral period, or anytime prior thereto, the committee shall determine whether the applicant has complied with all terms and conditions of the deferral agreement, and the committee shall so notify the Board. The Board shall then, by majority vote, make a determination as to whether the applicant is eligible for admission. In the event of a favorable Board vote, The Secretary shall then certify to the Clerk that the applicant is eligible for admission.

In the event the Committee determines that the applicant has failed to comply with the terms and requirements of the deferral agreement he or she shall be referred to the full Board for disposition in accord with the provisions of section E of this rule.

#### E. Referral to Board - Hearing - Procedures

In the event the Chair is unable to determine eligibility of the referred applicant, or in instances where other provisions of this rule mandate referral of the applicant to the Board for determination of eligibility, then the applicant shall be notified of such determination. The applicant shall be advised that he or she has a right to a hearing on the question and the right to be represented by counsel at the expense of the applicant. Such notice shall be sent by certified, return receipt, restricted delivery mail. The applicant shall have thirty (30) days from receipt of the notice to request a hearing. Such request shall be in writing and addressed to the Secretary.

Upon request of the applicant, the Chair shall appoint a hearing panel (panel) from the Board comprised of not less than three members who shall proceed to a hearing as hereafter provided. The Chair shall not be eligible to serve thereon. Absent exigent circumstances, the

hearing shall be conducted within 60 days after the Secretary is notified that the applicant requests a hearing. The Chair shall designate a member to serve as Chair of the panel. For good cause shown, the Chair of the panel may grant extensions of time.

This panel shall be appointed for the sole purpose of making a full and accurate record of all facts and circumstances affecting the application.

The Secretary shall act as evidence officer for the hearing with the responsibility of procuring and presenting evidence that may be pertinent, either for or against the applicant. However, for good cause shown, the Chair of the Board is authorized to appoint a substitute evidence officer.

At the start of the hearing, the evidence officer shall establish that all procedural requirements have been met as required by this rule and introduce documentary evidence. The applicant shall then present evidence in support of the application without regard to rules of evidence but subject to cross-examination. At the close of the applicant's presentation, the evidence officer shall then present any additional evidence which is pertinent, subject to cross-examination, and the applicant shall then be permitted to introduce any additional evidence which may be pertinent in rebuttal, subject to cross-examination. The record may be held open for a set period to acquire additional evidence.

All costs and expenses attributable to the preparation and distribution of the transcript shall be borne by the applicant. The applicant shall be required to post a bond as set by the Secretary to insure payment of such costs and expenses. The panel shall have authority to issue summons for any person or subpoenas for any witness, directed to any Sheriff or State Police Officer within the State, requiring the presence of any party or the attendance of any witness before it, to include production of pertinent documents or records. Such process shall be issued under the seal of the Supreme Court of the State of Arkansas and be signed by the Chair of the panel, or the Secretary. Summonses or subpoenas shall be served in any manner provided by the Arkansas Rules of Civil Procedure for service of process. Likewise, the affected applicant shall be entitled to compel, by summons or subpoena issued in the same manner, the attendance and testimony of witnesses, and the production of pertinent documents or records. The Circuit Court of Pulaski County shall have the power to enforce process. Disobedience of any summons or subpoena or refusal to testify shall be regarded as constructive contempt of the Arkansas Supreme Court.

Failure of the applicant to timely request a hearing or tender the bond required by the Secretary shall cause the application to be administratively terminated. After such termination, the applicant must file a new application for admission, readmission, or reinstatement, accompanied by the appropriate fees.

At the conclusion of the hearing, a copy of the transcript of the proceedings shall be submitted without comment to each member of the Board and the applicant. The Board, within thirty (30) days of receipt of the transcript, after considering the entire record de novo, shall by majority vote, determine the eligibility of the applicant. Thereafter, within sixty (60) days of said vote, the Board shall cause to be filed with the Secretary the findings of fact and conclusions of the Board, a copy of which shall be delivered to the applicant. Any concurrence or dissent in writing shall be made a part of the record and a copy furnished to the applicant. In instances where the Board votes to grant admission of a new applicant, no findings of fact and conclusions are required.

F. Board Decision - Evidentiary Hearing - Admission, Readmission or Reinstatement Denied - Appeal

Within thirty (30) days of receipt of written findings of the Board denying eligibility, the applicant may appeal said findings to the Supreme Court of Arkansas for review de novo upon the record. Such appeal shall be prosecuted by filing a written notice of appeal with the Clerk with a copy to the Secretary. The notice of appeal shall specify the party taking the appeal; shall designate the order of the Board from which appeal is sought; and, shall designate the contents of the record on appeal. The notice shall also contain a statement that the transcript, or specific portions thereof, have been requested from the Secretary. The Secretary shall certify the record as being a true and correct copy of the record as designated by the parties and it shall be the responsibility of the appellant to transmit such record to the Clerk. The record on appeal shall be filed with the Clerk within ninety (90) days from filing of the notice of appeal, unless the time is extended by order of the Board. In no event shall the time be extended more than seven (7) months from the date of entry of the order of the Board. Such appeals shall be processed in accord with pertinent portions of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas.

G. Board Decision - Evidentiary Hearing - Admission, Readmission or Reinstatement Recommended

The Board may recommend that an applicant be certified for admission. In such cases, the Secretary shall certify to the Clerk that the applicant is eligible for admission.

The Board may recommend readmission of an applicant subsequent to disbarment or surrender of license, or reinstatement after suspension of license pursuant to Rule VII (D) where a hearing panel has been appointed. In the Board's discretion, the applicant may be required to take the examinations set forth in Rule IX of these rules, or its successor rule. Subsequent to such recommendation the applicant shall file with the Court a motion pursuant to Rule 2-1 of the Rules of the Supreme Court and Court of Appeals, or its successor rule. Such a motion must be filed within thirty (30) days of receipt of notice that the Board has recommended readmission or reinstatement. The applicant shall file a single copy of the original transcript of the hearing, if one has been conducted, to include the findings of fact and conclusions, or, the original copy of the authorization for readmission which has been issued by the Chair of the Board. The motion filed in conjunction with the transcript or recommendation from the Chair shall briefly summarize the circumstances leading to the disbarment, surrender, or suspension. The matter shall then be referred to the Arkansas Supreme Court for disposition, at its discretion, in accordance with regular motion practice pursuant to Rule 2-1 or its successor rule.

H. General All other Rules Governing Admission to the Bar are hereby amended to conform with the provisions of this rule.

(Adopted and republished by Per Curiam November 20, 2003; amended by Per Curiam June 17, 2004.)

**Associated Court Rules:**

Rules Governing Admission to the Bar

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