

New York Court Rules

§ 805.5 Activities of eligible law students and law school graduates authorized by sections 478 and 484 of the Judiciary Law.

(a) Any officer or agency of the state, or of a subdivision thereof, or any legal aid organization whose principal office is located in this department, may make application to the presiding justice of this court for an order authorizing the employment or utilization of law students who have completed at least two semesters of law school and eligible law school graduates as law interns to render and perform legal services, to the extent set forth in paragraph (b) hereof, which the officer, agency or organization making the application is authorized to perform. The application shall set forth the names and addresses of the persons to be appointed and facts showing their eligibility for appointment, together with applicant's certification that they are of good character and competent legal ability.

(b) Authorized activities. Law students who have completed at least two semesters of law school and law school graduates appointed as law interns are authorized to engage in the following activities:

(1) In the Appellate Division, Third Department, to prepare briefs and memorandums of law and, upon prior approval of the court and when under immediate supervision of a supervising attorney, to argue appeals and motions in both civil and criminal actions and proceedings.

(2) In criminal matters, in superior courts, under general supervision of a supervising attorney, to render legal services at arraignments, bail applications, pleas, sentencings, preliminary hearings and post-conviction proceedings, including appeals.

(3) In criminal matters, in inferior courts, under general supervision, to render legal services at arraignments, pleas, sentencings, preliminary hearings, post-conviction proceedings and at non-jury trials in cases involving misdemeanors and lesser offenses; and, when under immediate supervision of a supervising attorney, at jury trials in cases involving misdemeanors.

(4) In family court, under general supervision, to render legal services on motions and in uncontested proceedings, and in contested matters when under immediate supervision of a supervising attorney.

(5) In civil actions and proceedings in or before any court or administrative agency, under general supervision, to render legal services in motions and uncontested matters, and, under immediate supervision, in contested civil matters. Appearances before federal courts and state and federal administrative agencies shall be subject to the rules and regulations of the particular court or agency involved.

(c) Requirements and limitations. A law intern may appear in the courts and administrative agencies specified in paragraph (b) above if the person on whose behalf the intern is appearing

and the supervising attorney have indicated in writing their consent to the appearance. The consents referred to shall be filed with and brought to the attention of the presiding officer of the court or administrative agency. Pleadings, legal documents, briefs and memorandums shall be indorsed by the supervising attorney and may contain the name of the law intern who participated in their preparation.

(d) Limitations on legal aid programs and organizations. Law students who have completed at least two semesters of law school and law school graduates engaged as law interns in a legal aid organization or legal services program whose principal office is located in this department shall be authorized to render legal services to and represent only persons who are financially unable to pay for legal services and are eligible to qualify for free legal services in accordance with the standards and guidelines of the organization or program in which they are engaged. They may not act in bankruptcy proceedings, libel and slander cases, decedent estate matters or contingent fee matters, except where three private attorneys have rejected the case; but, subject to the scope of the purposes of the organization or program in which they are engaged, they may render assistance to indigent persons in any matter in which a party does not have the right to assignment of counsel and to indigent inmates of correctional institutions or other persons who request assistance in preparing applications for post-conviction relief. A law intern shall neither ask for nor receive any compensation or remuneration for services from the party on whose behalf the services are rendered.

(e) Supervision. A supervising attorney shall be the head of the department, agency or legal aid organization making the application, or his or her designee, and shall have at least two years of actual practice in this state. The supervising attorney shall assume personal professional responsibility for any work undertaken by a law intern and shall supervise the preparation of the intern's work. Immediate supervision of a law intern shall mean that the supervising attorney shall be personally present throughout the proceedings.

(f) Length of appointment. A law student who has completed at least two semesters of law school or law school graduate may be employed to render legal services, as authorized herein, until he or she shall have been admitted to the bar or notified that he or she failed the New York State bar examination which was given immediately following graduation from law school. A person who shall fail to pass that examination but shall apply to take the next available New York State bar examination may be redesignated upon application to the presiding justice. The length of the period of service shall be specified in the order of appointment. (Amd. eff. 7/16/93.)

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