

## West Virginia

### Rules for Admission to the Practice of Law

#### **RULE 10.0. RULE RELATIVE TO LEGAL ASSISTANCE BY LAW STUDENTS TO PERSONS UNABLE TO PAY FOR LEGAL SERVICES.**

(a) *General purpose.* The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for such services, and to encourage law schools and supervising attorneys to provide clinical instruction in trial work of varying kinds, the following rule is adopted.

(b) *Scope of rule.* An eligible law student may appear, with a supervising attorney, in any court or before any administrative tribunal in this State on behalf of the State of West Virginia or any indigent person if the person on whose behalf the student is appearing has indicated in writing his or her consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:

(1) *Civil matters.* In civil actions or cases, the supervising lawyer shall be required to be personally present.

(2) *Criminal and other matters.* In all criminal and related matters, the supervising lawyer must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted. This provision shall apply to all matters in which the minimum due process requirements approximate the requirements of criminal cases. When a student represents the State, the supervising lawyer shall be the prosecuting attorney or his or her designated assistant prosecuting attorney.

(c) *Filing of written consent.* In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

*[As amended by order entered November 21, 1997, effective January 1, 1998.]*

#### **RULE 10.1. REQUIREMENTS AND LIMITATIONS.**

In order to make an appearance pursuant to this rule, the law student must:

(a) Be enrolled in a law school approved by the American Bar Association, or its equivalent, or have graduated from such school within the last six months, provided the student complies with Rule 10.2(a).

(b) Have completed legal studies amounting to at least four (4) semesters or the equivalent if the school is on some basis other than a semester basis.

(c) Demonstrate that he or she is in good academic standing or was in such standing at the time of graduation, has not been convicted of a crime involving moral turpitude or a felony, and has not been subjected to honor code discipline by the law school.

(d) Be introduced to the court in which the student is appearing by the supervising lawyer who shall be admitted to practice by the West Virginia Supreme Court of Appeals.

(e) Neither ask for nor receive any compensation or remuneration of any kind for his or her services from the person on whose behalf the services are rendered, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the State from paying compensation to the eligible law student.

(f) Certify in writing that he or she has read and is familiar with, and will be governed in the conduct of his or her activities under this rule by the Code of Professional Responsibility adopted by this Court.

*[As amended by order entered November 21, 1997, effective January 1, 1998.]*

#### **RULE 10.2. CERTIFICATION.**

The law school dean or his or her designee shall certify that the student has complied with 10.1(a), (b) and (c), and the certification:

(a) Shall be filed with the Clerk of the Supreme Court of Appeals and, unless it is sooner withdrawn, it shall remain in effect until June 15th for a student sitting for the February bar examination, until November 15th for a student sitting for the July bar examination, until a student has been notified that he or she has not achieved a passing score on the bar examination, or until the student has been licensed to practice law in the courts of this State and has registered as a member of the West Virginia State Bar, whichever is earlier. In order to be eligible for appearance under this rule, the law student must sit for the bar examination immediately following his or her graduation from law school. Nothing in this Rule shall be construed to allow or permit a student to appear, participate or engage in activities beyond those described in Rules 10.0, et seq., and, particularly, as described in Rules 10.0(b) and 10.3(a) and (b).

(b) May be withdrawn by the dean by mailing a notice to that effect to the Clerk of the Court.

(c) May be terminated by the Court. Notice of the termination shall be filed with the Clerk of the Court.

*[As amended by order entered November 29, 1989, effective January 1, 1990; by order entered June 26, 1990, effective August 1, 1990; by order entered May 16, 1991, effective May 16, 1991; and by order entered June 24, 1992, effective July 1, 1992.]*

#### **RULE 10.3. OTHER ACTIVITIES.**

(a) An eligible law student may engage in other activities, under the supervision of a member of the bar of the court, but outside the personal presence of that lawyer, including:

(1) Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings, or documents must be signed by the supervising lawyer.

(2) Preparation of briefs, abstracts and other documents to be filed in appellate courts of this State, but such documents must be signed by the supervising lawyer.

(3) Assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications for and supporting documents for post-conviction relief. All such assistance must be supervised by the attorney of record, and all documents submitted to the Court on behalf of such a client must be signed by the attorney of record.

(4) Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If he or she participated in drafting only a portion of it, that fact may be mentioned.

(b) An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer.

**RULE 10.4. SUPERVISION.**

The member of the Bar under whose supervision an eligible law student does any of the things permitted by this rule shall:

(a) Be a lawyer in good standing in the West Virginia State Bar.

(b) Assume personal professional responsibility for work undertaken by the student.

(c) Assist the student in his or her preparation to the extent the supervising lawyer considers it necessary.

(d) Not undertake the supervision of more than two eligible law students at the same time unless the supervising lawyer is a regularly appointed faculty member of a law school approved by the American Bar Association and the eligible students are enrolled for academic credit in a course taught by such faculty member at the time.

(e) Be responsible for monitoring the eligible student's activities to ensure that participation by the student in the practice of law is limited to that outlined in Rule 10.0(b).

*[As amended by order entered June 24, 1992, effective July 1, 1992.]*

**RULE 10.5. MISCELLANEOUS.**

Nothing contained in the rule shall affect the right of any person who is not admitted to practice law to do anything that he or she might lawfully do prior to the adoption of this rule.