

Rules of the Massachusetts Supreme Judicial Court

RULE 3:03. LEGAL ASSISTANCE TO THE COMMONWEALTH AND TO INDIGENT CRIMINAL DEFENDANTS, AND TO INDIGENT PARTIES IN CIVIL PROCEEDINGS.

(1) A senior law student in an accredited law school, or a law school authorized by statute of the Commonwealth to grant the degree of bachelor of laws or juris doctor, who has successfully completed or is enrolled in a course for credit in evidence or trial practice, with the written approval by the dean of such school of his character, legal ability, and training, may appear without compensation

(a) on behalf of the Commonwealth (including a subdivision of the Commonwealth or an agency of the Commonwealth or of a subdivision) in proceedings in any division of the District Court, Juvenile Court, Probate and Family Court or Housing Court Departments or in the Boston Municipal Court Department, provided that the conduct of the case is under the general supervision of a member of the bar of the Commonwealth who is a regular or special assistant district attorney, a regular or special assistant attorney general, an agency counsel or assistant agency counsel or a corporation counsel, city solicitor, town counsel, assistant municipal counsel or assistant solicitor;

(b) on behalf of indigent defendants in criminal proceedings in any division of the District Court, Juvenile Court or Housing Court Departments or in the Boston Municipal Court Department, or in the Supreme Judicial Court or the Appeals Court, provided that the conduct of the case is under the general supervision of a member of the bar of the Commonwealth assigned to the case by the Committee for Public Counsel Services or employed by a non-profit program of legal aid, legal assistance or defense or a law school clinical instruction program; and

(c) on behalf of indigent parties in civil proceedings in any division of the District Court, Juvenile Court, Probate and Family Court, or Housing Court Departments or in the Boston Municipal Court Department, provided that the conduct of the case is under the general supervision of a member of the bar of the Commonwealth assigned by the Committee for Public Counsel Services or employed by a non-profit program of legal aid, legal assistance or defense or a law school clinical instruction program.

(2) The expression "general supervision" shall not be construed to require the attendance in court of the supervising member of the bar. The term "senior student" or "senior law student" shall mean students who have completed successfully their next to the last year of law school study.

(3) The written approval described in paragraph (1), for a student or group of students, shall be filed with the clerk of the Supreme Judicial Court for the county of Suffolk and shall be in effect, unless withdrawn earlier, until the date of the first bar examination following the student's graduation, and as to a student taking that examination, until the announcement of the results thereof. For any student who passes that examination, the approval shall continue in effect for six months after the date of examination or until the date of his or her admission to the bar, whichever is sooner, unless otherwise ordered by the Supreme Judicial Court.

(4) A justice of the Superior Court Department may, in his discretion, permit a senior law student, qualified and supervised as provided in paragraphs (1) through (3) above, to appear without compensation on behalf of the Commonwealth or on behalf of an indigent defendant in a criminal proceeding:

(a) on a motion for a new trial in that court seeking post-conviction relief after the time for direct appeal has expired, or (if such an appeal has been taken) after the appeal has been decided by the Supreme Judicial Court, or

(b) on an appeal for review of sentence in the Appellate Division of that court under G. L. c. 278, §§ 28A-28D, or

(c) on a petition heard in that court, under G. L. c. 276, § 58, as amended, for review of District Court refusal to authorize pretrial release of defendant on personal recognizance.

(5) A justice of the Superior Court or the Land Court Departments may, in his discretion, permit a senior law student, qualified and supervised as provided in paragraphs (1) through (3) above, to appear without compensation on behalf of the Commonwealth or indigent persons in civil proceedings.

(6) If an appearance by a senior law student is not permitted as of right by this rule, a justice of the Supreme Judicial Court or of the Appeals Court may, in his discretion, permit a senior law student, qualified and supervised as provided in paragraphs (1) through (3) above, to appear in those courts without compensation on behalf of the Commonwealth or indigent persons. Successful completion of or enrollment in a course for credit in appellate practice in an accredited law school, or a law school authorized by statute of the Commonwealth to grant the degree of bachelor of laws or juris doctor, may, in the discretion of an appellate justice, be deemed a substitute for the course requirement provision of paragraph (1) of this rule.

(7) A senior law student, qualified and supervised as provided in paragraphs (1) through (3) above, may appear without compensation on behalf of the Commonwealth or indigent persons before any administrative agency, provided such appearance is not inconsistent with its rules.

(8) A student who has begun his next to the last year of law study in an accredited law school, or a law school authorized by statute of the Commonwealth to grant the degree of bachelor of laws or juris doctor, qualified and supervised as provided in paragraphs (1) through (3) above, may appear in civil proceedings under the same conditions as a senior law student, provided that the written approval referred to in paragraphs (1) and (3) states that he is currently participating in a law school clinical instruction program.

(9) Rule 3:03 applies only to a student whose right to appear commenced at least three months prior to graduation from law school. Subject to the time limitations expressed in paragraph (3) of this rule, such a student may make appearances after graduation under the same or any other non-profit program of legal aid, legal assistance, prosecution or defense, or law school clinical instruction.