



2023 Resolution Process

Voter Pamphlet



Dear Idaho Attorney:

Unlike many state bars, the Idaho State Bar cannot take positions on legislative matters, rules of court, substantive rules governing the bar itself at its Annual Meeting or by act of its Bar Commissioners, without first submitting matters to the membership through the resolution process. Enclosed are the resolutions proposed for your consideration during the 2023 Idaho State Bar resolution process, aka “The Road Show.”

In addition to the resolution, the meetings include presentations honoring your colleagues receiving the pro bono, retiring judges and professionalism awards. There will be a CLE program offered free to all bar members at each location.

District	District Bar President	Date of Meeting	Meeting Location	Time of Meeting
<i>First District</i>	Zack Jones	Thursday Nov. 2	Best Western Plus Coeur d’Alene Inn 506 West Appleway Ave, Coeur d’Alene	12 noon CLE - 1:15 p.m.
<i>Second District</i>	Brennan Wright	Thursday Nov. 2	ICCU Alumni Room University of Idaho, Moscow	6:00 p.m. CLE – 5:30 p.m.
<i>Third District</i>	Jeffrey Phillips	Monday Nov. 13	College of Idaho Simplot South Dining room, Caldwell	6:00 p.m. CLE – 5:30 p.m.
<i>Fourth District</i>	Jennifer Hearne	Tuesday Nov. 14	Barber Park Event Center 4049 S. Eckert Road, Boise	12 noon CLE – 1:30 p.m.
<i>Fifth District</i>	Anja Rodriguez	Thursday Nov. 9	Blue Lakes Country Club 1940 Blue Lakes Grade, Jerome	6:00 p.m. CLE – 5:30 p.m.
<i>Sixth District</i>	Jason Brown	Thursday Nov. 9	Idaho State Univ. ICCU Bengal Alumni Center 1601 E. Bonneville, Pocatello	12 noon CLE 11:30 a.m.
<i>Seventh District</i>	H. Alayne Bean	Wednesday Nov. 8	Hilton Garden Inn 700 Lindsey Blvd, Idaho Falls	12 noon CLE 11:30 a.m.

Each judge and active member of the Idaho State Bar in attendance at a resolution meeting is provided a ballot. Members not in attendance will be mailed a ballot after the meeting. Ballots may be completed and submitted at the resolution meetings, or mailed, emailed, or delivered to the Idaho State Bar office. Issues shall be determined by the total ayes and nays cast statewide. **All ballots must be signed and are due in the Idaho State Bar office by the close of business on Monday, December 4, 2023.**

See you at the district bar meetings.

Gary Cooper
President

Diane K. Minnich
Executive Director



2023 RESOLUTION PROCESS

VOTER PAMPHLET TABLE OF CONTENTS

2023 Pro Bono, Professionalism, and Retiring Judges Award Recipients	3
Resolution Process Explanation/Membership Statistics	4
2023 Resolution Text and Discussion	5-18

2023 PROPOSED RESOLUTIONS

- 1. Amendments to Section III, V, VI, and XI of the Idaho Bar Commission Rules**
– Proposes to amend Sections of I.B.C.R. to allow for electronic service and notice.
Presented by: Board of Commissioners of the Idaho State Bar **Pgs. 5-7**
- 2. Amendments to Section II of the Idaho Bar Commission Rules** – Proposes to amend the admission rules to make admission based on practice experience available to attorneys from any jurisdiction and to include judicial law clerk work in the definition of the “Active Practice of Law.”
Presented by: Board of Commissioners of the Idaho State Bar **Pgs. 8-10**
- 3. Amendments to Section IX of the Idaho Bar Commission Rules** – Proposes to amend I.B.C.R. 906 to allow for electronic voting on resolutions and change the language for emergency resolutions to time-sensitive resolutions.
Presented by: Board of Commissioners of the Idaho State Bar **Pgs. 11-13**
- 4. Amendments to Section IV of the Idaho Bar Commission Rules** – Proposes to increase MCLE application fees for CLE course providers, with a reduced fee for Idaho Affinity Groups.
Presented by: Board of Commissioners of the Idaho State Bar **Pgs. 14-15**
- 5. Amendments to Section V of the Idaho Bar Commission Rules** – Proposes to amend I.B.C.R. 518 to require reimbursement of funds owed to the Bar or Client Assistance Fund as a condition of reinstatement.
Presented by: Board of Commissioners of the Idaho State Bar **Pg. 16**
- 6. Amendments to Section III of the Idaho Bar Commission Rules** – Proposes to add a retired judicial member licensing status.
Presented by: Board of Commissioners of the Idaho State Bar **Pgs. 17-18**

RESOLUTION MEETING AGENDA

- Welcome, Announcements and Introductions
 - *ISB President Gary Cooper and District Bar President*
- Pro Bono, Retiring Judges and Professionalism Awards
- Presentation of 2023 Resolutions
- Local Bar Business

2023 PROFESSIONALISM, PRO BONO and RETIRING JUDGES AWARD RECIPIENTS

Each year, the Idaho State Bar honors members of the profession for their contributions to their communities and the profession. At least one attorney from each judicial district receives the professionalism award and attorneys from around the state are recognized for their pro bono efforts.

PROFESSIONALISM AWARDS

First District	Peter J. Smith	Coeur d'Alene
Second District	Jana B. Gomez	Pullman
Third District	Timothy L. Fleming - posthumous	Emmett
Fourth District	Nicholas G. Miller	Boise
Fifth District	Dennis S. Voorhees	Twin Falls
Sixth District	Carole I. Wesenberg	Pocatello
Seventh District	William R. Forsberg	Rexburg

DENISE O'DONNELL DAY PRO BONO AWARDS

First District	Jamila D. Holmes	Coeur d'Alene
Second District	Jennifer M. Tengono	Lewiston
Third District	Debra L. Raymer	Tamarack
Fourth District	Shannon N. Romero Erin N. Fuller	Boise Boise
Fifth District	Patricia M. Migliuri	Twin Falls
Sixth District	John D. Oborn	Pocatello
Seventh District	Camiliana Wood	Blackfoot

IDAHO STATE BAR RETIRING JUDGES AWARDS

Idaho Supreme Court	Hon. John Stegner	Boise
First District	Hon. Barbara A. Buchanan	Sandpoint
Second District	Hon. Jeff Brudie	Lewiston
Third District	Hon. Jerold Lee Hon. Christopher Nye Hon. Susan Wiebe	Caldwell Caldwell McCall
Fourth District	Hon. Christopher M. Bieter Hon. Roger E. Cockerille Hon. Michael J. Reardon	Boise Idaho City Boise
Fifth District	Daniel M. Dolan	Fairfield
Sixth District	Hon. Thomas W. Clark Hon. Mitchell W. Brown	Pocatello Soda Springs
Seventh District	Hon. Ralph L. Savage Hon. Michelle R. Mallard Steven A. Gardner	Arco Idaho Falls Idaho Falls

IDAHO STATE BAR RESOLUTION PROCESS

Unlike most state bars, the Idaho State Bar cannot take positions on legislative matters, rules of court, or substantive rules governing the bar itself at its Annual Meeting, or by act of its Bar Commissioners, without first submitting such matters to the membership through the Resolution Process.

Process

The Resolution Process is set forth in Idaho Bar Commission Rule 906. Briefly summarized, the Resolution Process is as follows:

Submission & Circulation of Resolutions

Resolutions may be submitted by a district bar association, by the Board of Commissioners, the Idaho Supreme Court, by a bar section or committee, or by an individual member of the bar.

Resolutions submitted by a district bar association, Idaho Supreme Court, or the Board of Commissioners are automatically included in the resolution process.

Resolutions submitted from other sources are presented to the first meeting of district bar representatives and the Board of Commissioners for consideration. This body votes on whether to circulate the resolution to the membership. Resolutions that are approved at this meeting are then mailed to each member of the Idaho State Bar. Included in the pamphlet is discussion of the purpose of the resolution and the text of each resolution.

Resolution Meetings

District bar meetings are held in each of the seven districts.

Voting

Each judge and active member of the Idaho State Bar shall be entitled to one vote on each question presented. Questions shall be determined by the total ayes and nays cast statewide.

Members in attendance at a resolution meeting will be provided a ballot to vote on the

resolutions. Members not in attendance at the meeting will be mailed a ballot after the resolution meeting in their district. Ballots may be completed and submitted at the resolution meetings, or mailed, faxed or delivered to the Idaho State Bar office. **All ballots must be signed and are due in the Idaho State Bar office by the close of business on Monday, December 4, 2023.**

Amendments

After voting on a resolution as presented at the resolution meeting, district bar members may vote to offer an amendment to a proposed resolution. Only members attending a resolution meeting will be able to vote on proposed amendments. Thus, a district may instruct its representative to offer an amendment at the second meeting of district bar representatives.

Conclusion of Process

After all resolution meetings are concluded, the district bar representatives meet again on December 7, 2023. At that meeting, the representatives are to cast their votes in accordance with the votes cast by the members of their district bar association. The district representatives may cast votes on amendments as they see fit.

The final versions of successful resolutions are then forwarded to the appropriate recipients.

As of September 2023, the Idaho State Bar voting membership breakdown is as follows:

District	Eligible voters	% of total eligible
1	441	7.69%
2	226	3.94%
3	318	5.55%
4	2323	40.5%
5	299	5.21%
6	213	3.71%
7	432	7.53%
out of state	1482	25.85%
Total	5693	100.00%

RESOLUTION 23 - 01
Amendments to Section III, V, VI, and XI of the Idaho Bar Commission Rules – Electronic Service and Notice

Presented by: Board of Commissioners of the Idaho State Bar

Rationale:

- Under the current Idaho Bar Commission Rules (“I.B.C.R.”), service of disciplinary complaints and petitions and service of claims filed with the Client Assistance Fund shall be effected by personal service, certified mail, or publication in *The Advocate*.
- Lawyers who have failed to pay their annual dues or failed to complete their requisite CLEs may have their licenses canceled. In those instances, such lawyers often fail to provide updated contact information to the Idaho State Bar and no longer receive or review *The Advocate*, making service by publication in *The Advocate* a necessary but ineffective means to provide notice to the lawyer of a pending disciplinary matter or a Client Assistance Fund claim.
- The proposed revisions to I.B.C.R. 523 and 614 will provide additional means to notify lawyers about pending disciplinary and other Idaho State Bar matters requiring a lawyer’s attention. The revisions provide that if service cannot be made on the responding lawyer by personal service or certified mail, service shall be effected by email to the responding lawyer’s eService address and email address on file with the Idaho State Bar or, if no such address is on file, then service shall be effected by publication on the Idaho State Bar’s website.
- I.B.C.R. 307 and 1102 specify how notice is provided to Idaho State Bar members of specific refunds and the formation of new practice sections. Currently, those Rules provide that such notice is limited to publication in *The Advocate*.
- To update those notice requirements and provide more timely and effective notice to Idaho State Bar members, the proposed revisions to I.B.C.R. 307 and 1102 provide that notice of partial refunds and notice of new practice sections shall be provided by publication in *The Advocate* or by electronic communication sent directly by the Idaho State Bar to lawyers.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners recommends that the members of the Idaho State Bar recommend to the Idaho Supreme Court that Sections III, V, VI, and XI of the Idaho Bar Commission Rules be amended to provide for service, if necessary, by electronic means and by publication on the Idaho State Bar’s website, and to provide for notice by electronic communication to lawyers.

RULE 307. Partial Refund of License Fees/Political Activity.

- (a) To the extent Bar license funds are expended to advocate political or ideological positions that are not reasonably related to the Bar’s enumerated purposes, dues-paying members may, upon application, be refunded an appropriate amount of their license fee, equal to the proportionate amount expended for such advocacy.
- (b) The amounts of license fees expended for advocacy activities described in subsection (a) shall be announced by publication in *The Advocate* or by electronic communication from the Bar to Bar Members.
- (c) Refund applications shall be made within thirty (30) days of the date ~~of publication of The Advocate notice~~ the Bar notifies Bar Members under subsection (b) and shall be directed to the Executive Director.

- (d) Nothing in this section shall be construed to create an affirmative obligation on the Bar to advocate or refrain from advocating any political or ideological positions.

RULE 523. Service and Filing of Pleadings.

- (a) **Form of Pleadings.** The form, style and content of all pleadings shall conform to the provisions of Rule 10 of the Idaho Rules of Civil Procedure.
- (b) **Signing of Pleadings.** The provisions of Rule 11 of the Idaho Rules of Civil Procedure are incorporated into these Rules.
- (c) **Complaints and Petitions.** Service of complaints and petitions under these Rules shall be made by personal service under Idaho Rules of Civil Procedure 4(d)(1) and 4(d)(2) or by certified mail, return receipt requested, to the Lawyer's address, as filed with the Bar. If service cannot be made as above, service shall be made ~~in the official Bar publication and shall be deemed complete 14 days after the date the official Bar publication is mailed to Lawyers~~ by email to the Lawyer's eService address and email address on record with the Bar or, if no eService address or email address is on record with the Bar, service shall be made by publication on the Bar's website and shall be deemed complete 14 days after such publication.
- (d) **Answers, Responses and Other Pleadings.** Original answers, responses and other pleadings under these Rules shall be filed with the Clerk by personal delivery or mail. The Clerk's address is 525 W. Jefferson, Boise, Idaho 83702. Copies of original pleadings shall be served upon all parties by personal delivery, mail or electronic means.
- (e) **Service.** Whenever notice is required in these Rules, the Clerk shall promptly serve such notice by regular first-class mail. Service shall be complete upon mailing.

RULE 614. Service.

- (a) **Claims.** Service of Claims under these Rules shall be made by certified mail, return receipt requested, to the Lawyer's address as filed with the Bar. If service upon the Lawyer cannot be made as provided above, service shall be made ~~in the official Bar publication and shall be deemed complete fourteen (14) days after the date the official Bar publication is mailed to Lawyers~~ by email to the Lawyer's eService address and email address on record with the Bar or, if no eService address or email address is on record with the Bar, service shall be made by publication on the Bar's website and shall be deemed complete 14 days after such publication.
- (b) **Responses and Other Documents.** Responses and other documents filed under these Rules shall be served upon the Bar and parties by personal delivery, certified mail or electronic means.

RULE 1102. Formation.

- (a) **Petition.** Those seeking to form a new practice section shall secure the signatures of not less than twenty-five (25) bar members, on a form prescribed by the Commissioners.
- (b) **Statement of Purpose; Practice Section Title.** A petition seeking formation of a new practice section shall include a statement of purpose and a proposed title for that practice section. The statement of purpose and title shall reflect the particularized field(s) or aspect(s) of the practice law in which the practice section intends to concentrate. Practice sections will not be authorized if it appears that ~~its~~ their purpose is to promote a particular political or ideological point of view.
- (c) **Action by Commissioners.** Upon receipt of a petition for formation of a practice section, the Commissioners shall review the petition for conformance with these Rules. Thereafter, the Commissioners shall:

- (1) Approve formation of the practice section under such terms and conditions as it may deem necessary for conformance with these Rules; or
 - (2) Return the petition to its originators, noting any changes needed in order to bring the petition in conformance with these Rules; or
 - (3) Reject the petition as being not in conformance with these Rules or as otherwise duplicative of an existing practice section.
- (d) **Organizational Meeting; Officers; By-Laws.** Upon its approval, a practice section shall conduct an organizational meeting, after appropriate notice is published in The Advocate or sent by electronic communication from the Bar to Bar Members. At the organizational meeting, the practice section shall elect officers to serve until the time set for annual election of officers. The practice section shall also adopt by-laws, in the form generally prescribed for that purpose by the Commissioners. The by-laws shall become effective upon approval by the Commissioners. Specific Commissioner approval shall be necessary for material modifications to the uniform by-laws.
- (e) **Amendments to By-Laws.** All amendments to a practice section's by-laws shall require the prior approval of the Commissioners.

RESOLUTION 23 - 02

Amendments to Section II of the Idaho Bar Commission Rules - Admission Based on Practice Experience

Presented by: Board of Commissioners of the Idaho State Bar

Rationale:

- Idaho Bar Commission Rule (“I.B.C.R.”) 206 provides that an attorney who has practiced law for several years in a reciprocal jurisdiction may be admitted to practice law in Idaho without having to pass the Idaho bar examination. A reciprocal jurisdiction is one that grants admission to Idaho attorneys without having to take the bar examination. An attorney who does not qualify for reciprocal admission must pass the Idaho bar examination.
- The Idaho Bar Commission Rules have provided for reciprocal admission since 2001, starting with attorneys from Washington and Oregon. In 2006, the rule was amended to extend reciprocal admission to any jurisdiction that would admit Idaho attorneys under provisions substantially similar to Idaho’s rule. Today, thirty-five jurisdictions qualify as reciprocal.
- Forty-four jurisdictions have rules enabling experienced attorneys to be admitted without passing the bar examination. Of those forty-four jurisdictions, twenty jurisdictions do not require reciprocity, but rather allow any attorney from any jurisdiction who has practiced law for several years to be admitted there without having to pass the bar examination. Among Idaho’s geographic neighbors, Montana, Oregon, and Washington allow any experienced attorney to be admitted there without having to pass the bar examination.
- In 2002, the American Bar Association adopted the Model Rule on Admission by Motion (“ABA Model Rule”). The ABA Model Rule permits any lawyer admitted in one U.S. jurisdiction to be admitted in another jurisdiction without having to pass that jurisdiction’s bar examination if that lawyer has actively practiced law for at least three of the previous five years.
- Prior to 2010, Section II of the Idaho Bar Commission Rules defined “Practice of Law” to include work as a judicial law clerk. In 2010, Section II of the Idaho Bar Commission Rules was repealed and replaced, the defined term “Practice of Law” was replaced with “Active Practice of Law,” and judicial law clerk work was not included in that definition. Since then, the Idaho State Bar has not considered judicial law clerk work as the “Active Practice of Law” for the purpose of meeting I.B.C.R. 206’s practice experience requirement.
- Of the forty-four jurisdictions with rules enabling attorneys to be admitted without passing the bar examination, twenty-nine define the practice of law to include work as a judicial law clerk. Among Idaho’s geographic neighbors, Utah, Oregon, and Montana define the practice of law to include work as a judicial law clerk. The ABA Model Rule has always defined the “active practice of law” to include work as a judicial law clerk.
- In the interest of treating all experienced attorneys from other jurisdictions fairly in the admissions process, the Board of Commissioners recommends the proposed amendments to Section II of the Idaho Bar Commission Rules to make admission based on practice experience available to attorneys from any jurisdiction and to include judicial law clerk work in the definition of the “Active Practice of Law.”

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners recommends that the members of the Idaho State Bar recommend to the Idaho Supreme Court that Section II of the Idaho Bar Commission Rules be amended to provide for

admission based on practice experience for attorneys from any jurisdiction and to include judicial law clerk work in the definition of the “Active Practice of Law.”

RULE 200. Definitions. Unless otherwise expressly provided, the following terms have the following meanings as used in the rules relative to admissions:

....

~~(l) Experienced Attorney Applicant. An Applicant for admission to practice law under Rule 206.~~

~~(lm)~~ **Foreign Legal Consultant.** An Applicant who is licensed to practice law in a foreign jurisdiction as an attorney or counselor at law or the equivalent under Rule 207.

~~(mn)~~ **House Counsel Applicant.** An Applicant for admission to practice law under Rule 225.

~~(no)~~ **RA Committee.** The Reasonable Accommodations Committee as provided in Rule 213.

~~(o) Reciprocal Applicant. An Applicant for admission to practice law under Rule 206.~~

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**(Section (s) added 3-7-11 – effective for the February 2012 bar exam and all exams thereafter.)*

RULE 203. Application for Admission.

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(b) Time for Filing Application.

(1) Except as provided in subsections (2) and (3) below, Applications must be received by the Bar no later than March 1 for the July bar examination and October 1 for the February bar examination.

(2) Late Applications will be accepted on or before April 15 for the July bar examination and on or before November 15 for the February bar examination. No Applications shall be accepted after the late Application deadline.

(3) ~~A UBE Score Transfer Applicant, Experienced Attorney Applicant, or House Counsel Applicant may file an reciprocal or house counsel~~ Application ~~may be filed~~ at any time.

***(c) Fees.** Applications for bar examination and admission must include all the required fees.

(1) Application Fees.

(A) Student Applicant: \$600

(B) Attorney Applicant: \$800

(C) ~~Reciprocal~~ Experienced Attorney Applicant: \$~~1200~~2000

(D) House Counsel Applicant: \$800

....

(d) Withdrawal. An Application may be withdrawn at any time prior to the first day of the bar examination. ~~Reciprocal~~ Experienced Attorney Applicants, House Counsel Applicants and UBE Score Transfer Applicants may withdraw their Application at any time before admission. Once an Application is withdrawn, a new Application and required fees must be submitted.

RULE 206. ~~Reciprocal Applicants~~ Admission Based on Practice Experience.

***(a) Qualifications.** In order to be admitted to practice law without taking the Idaho bar examination, an Experienced Attorney ~~Reciprocal~~ Applicant must show to the satisfaction of the Board that he or she:

(1) Has met the qualifications for admission under Rule 202;

(2) Has passed a written bar examination and was admitted as an attorney by the highest court in any state or territory of the United States or the District of Columbia ~~that grants reciprocal admission under provisions substantially similar to this rule to attorneys licensed in Idaho;~~

(3) Has been substantially engaged in the Active Practice of Law in ~~Idaho or under the authority of another jurisdiction that grants admission to attorneys licensed in Idaho under~~

~~provisions substantially similar to this rule~~ one or more states or territories of the United States or the District of Columbia for no less than three of the five years immediately preceding the Application; ~~however, if the jurisdiction from which the Reciprocal Applicant is seeking admission to the Bar requires at least three years of active practice within the five years immediately preceding the Application, then the Reciprocal Applicant must satisfy the period of time required in that jurisdiction.~~ For purposes of this rule, substantial engagement in the Active Practice of Law includes:

(A) Attorneys who are licensed in Idaho as house counsel under Rule 225. Practice of law in Idaho as house counsel without an Idaho house counsel license does not satisfy the requirements of this subsection;

(B) Judges, administrative judges or the equivalent thereof in another jurisdiction, of a court of general or appellate jurisdiction of any state or territory of the United States, the District of Columbia or federal court in the United States;

(C) Service as a judicial law clerk in a local, state, territorial, or federal court of record in the United States, which service was performed after admission to practice and as a licensed, active member of the jurisdiction in which the service was performed; or

(D) Attorneys who are employed by and teaching full-time in an Approved Law School;

(4) Possesses the moral character and fitness required of all other Applicants for admission;

(5) Has paid all required Application fees and costs; and

(6) Has not failed ~~the Idaho~~ bar examination in the five years immediately preceding the Application.

(*Section (a) amended 3-5-12 – effective 7-1-12.)

(b) **Legal Intern or Pro Hac Vice.** The time an attorney practices or practiced in Idaho under Rule 226 or 227 does not independently qualify as time substantially engaged in the Active Practice of Law.

(c) **Time and Manner for Admission.** ~~Reciprocal~~Experienced Attorney Applicants shall be admitted as provided in Rule 220.

***RULE 217. Bar Examination.**

(a) **Examination Required.** Except as otherwise provided in this Rule, all Applicants, except Experienced Attorney Applicants~~Reciprocal~~ and House Counsel Applicants, must take the Idaho bar examination.

(b) **Idaho Bar Examination.** The Idaho bar examination consists of the National Conference of Bar Examiners (NCBE) prepared exams including six Multistate Essay Examination (MEE) questions, two Multistate Performance Test (MPT) questions and the Multistate Bar Examination (MBE). If all components of the Idaho bar examination are taken in the same examination administration and given according to the standards established by the NCBE, the examination qualifies as the Uniform Bar Examination (UBE).

~~(c) **Attorney Applicants.** An Attorney Applicant, not eligible for reciprocal admission, who has been engaged in the Active Practice of Law for at least three of the last five years on the date of Application shall not be required to take the MBE. The Applicant shall be required to take all essay portions of the Idaho bar examination. Such an applicant is not eligible to receive a UBE score that is transferable to another jurisdiction, unless applicant chooses to take the UBE described above.~~

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To review the complete Idaho Bar Commission Rules 200, 203, 206 and 217, click [here](#).

RESOLUTION 23 - 03
Amendments to Section IX of the Idaho Bar Commission Rules – Resolution Process
Presented by: Board of Commissioners of the Idaho State Bar

Rationale:

- Idaho Bar Commission Rule (“I.B.C.R.”) 906(d), Resolution Process, currently provides for voting by paper ballot only. To update voting methods for resolutions and to provide electronic voting access for lawyers, the proposed rule provides for voting by either paper ballot or electronic voting.
- Currently, resolutions may be presented to the Idaho State Bar membership for a vote only once annually, in November, unless the Board determines an emergency exists. However, there may be time-sensitive matters relevant to the governance, administration, or regulatory functions of the Idaho State Bar for which a vote by the membership is required. In those instances, a November vote may be unfeasible.
- The proposed revisions to I.B.C.R. 906(l) provide that for time-sensitive matters, as determined by the Idaho Supreme Court or the Board of Commissioners, the Board may submit a question to eligible voting members of the Idaho State Bar for consideration outside the annual November voting period.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners recommends that the members of the Idaho State Bar recommend to the Idaho Supreme Court that Section IX of the Idaho Bar Commission Rules be amended to provide for electronic voting and for voting by eligible voting members of the Idaho State Bar on time-sensitive decisions.

RULE 906. Resolution Process.

- (a) **Purpose and Matters to be Considered.** All matters relating to or affecting the statutes or laws of the State of Idaho, rules of court, the policies of the Idaho State Bar or the governance of the Idaho State Bar or of the district bar associations shall be determined by the members of the Idaho State Bar by direct secret ballot or through a vote of the district bar associations as provided in this rule, provided that matters relating to technical corrections, clarification or implementation of the Idaho Bar Commission Rules may be adopted by the Board and proposed to the Idaho Supreme Court.
- (b) **Submission of Resolutions.** Resolutions may be submitted by the Board, district bar associations, sections or committees of the bar, or by any member of the Idaho State Bar. Resolutions shall be submitted in writing, with copies of any proposed legislation or rule changes attached, to the office of the Executive Director of the Idaho State Bar on or before September 25. Each resolution submitted shall be reviewed by the delegates to the October meeting so they may become familiar with the purpose of the resolution and report to the members of their district bar association.
- (c) **Voting - Eligibility.** Each active, house counsel and judicial member of the Idaho State Bar shall be entitled to one (1) vote on each question presented.
- (d) **Voting – ~~Method~~ Procedure.**
 - (1) **Ballots.** Following the October meeting, the Executive Director shall send a ballot to all eligible voters, listing all resolutions in “aye or nay” form, and including instructions for the return of ballots. Voters may return the ballots to the offices of

the Idaho State Bar or cast them at their respective district bar association meeting. Questions shall be determined by the combined ayes and nays cast statewide.

(2) **Voting Method.** At the Board's discretion, the election may be conducted by paper ballots and/or a secure electronic voting ("electronic voting") system. In the case of an election using both paper ballots and electronic voting, the Executive Director shall mail paper ballots to members of the Idaho State Bar who are eligible to vote but who do not have a valid email address on file with the Idaho State Bar. Such mailing shall include information regarding how to vote by electronic voting. On that same date, the Executive Director shall send ballots electronically to all other members of the Idaho State Bar who are eligible to vote and shall provide information about how to obtain a paper ballot instead of voting by electronic voting.

(A) **Paper ballots.** Members voting by paper ballot shall mark the ballot and place it in a signed envelope. Paper ballots must be received by the Executive Director no later than 5:00 p.m. on the date designated by the Board as the voting deadline. Any ballots not enclosed in a signed envelope shall not be counted.

(B) **Electronic voting.** Members voting electronically shall be provided a secure link to an online ballot. Electronic voting must be completed no later than 5:00 p.m. on the date designated by the Board as the voting deadline. Votes cast via electronic voting shall be verified and securely stored by the vendor.

(e) **October Meeting.** The October meeting shall be scheduled in accordance with Rule 905(b).

(1) **Delegates.** Each district bar association shall elect or appoint one (1) member from the district bar association to serve as delegate to the meeting. Each Commissioner of the Board shall also serve as a delegate.

(2) **Vote.** The vote of each district bar association on any question shall be cast at the October meeting as instructed by the district bar association. Each question shall be determined by a majority vote of all delegates present at the meeting.

(3) **Determination whether to Circulate.** All resolutions submitted by the district bar associations, Idaho Supreme Court and Board shall be automatically considered submitted for resolution process consideration, unless two-thirds of the delegates present at the October meeting conclude that a proposed resolution is clearly outside the scope of the Idaho State Bar's authority.

(f) **Circulation of Resolutions to Membership.** All resolutions submitted by the district bar associations, Idaho Supreme Court and the Board, and all other resolutions approved by a majority vote cast by the delegates as provided in this rule, shall be circulated directly to the members of the Idaho State Bar as soon as practical by the Board.

(g) **Consideration by District Bar Associations.** Each resolution following its dissemination shall be considered by the members of each district bar association at a meeting held prior to December 1 of each year.

(h) **Amendments to Circulated Resolutions.** Proposed amendments to circulated resolutions may be offered at any district bar association resolution meeting. Once an amendment is proposed at a district bar association resolution meeting, an advisory vote shall be taken at the meeting where the amendment was offered and shall be taken at any subsequent district bar association resolution meeting if the amendment is approved by the advisory vote at the resolution meeting where the amendment was offered. Proposed amendments shall be

germane to the original resolution and shall not be contrary to or defeat the intent of the original resolution.

- (i) **Circulation of Proposed Amendments.** Proposed amendments approved by an advisory vote of the members of at least one district bar association meeting shall be disseminated to the officers of the district bar associations prior to the December meeting.
- (j) **December Meeting.** The December meeting shall be scheduled in accordance with Rule 905(c).
 - (1) **Delegates.** Each district bar association shall elect or appoint one (1) member of the district bar association as the delegate to the meeting who shall cast the vote of the district bar association on each resolution circulated and voted on by the members of that district bar association.
 - (2) **Vote.** The vote of each district bar association shall be cast according to the ayes and nays cast by the voting members of that district bar association.
 - (A) **Amendments to Circulated Resolutions.** Notwithstanding any other provisions of this Rule, each delegate shall have discretionary authority to also vote on any proposed amendments offered at one of the district bar association resolution meetings and approved by an advisory vote to said resolutions.
- (k) **Referendum.** A resolution may provide whether a referendum of the membership shall be taken on any question and the form and substance of the question to be presented, which question shall be framed so as to be capable of a “yes” or “no” answer.
 - (1) **Ballots - Canvassing.** The Executive Director shall prepare ballots within ten (10) days following the December meeting of the district bar association delegates and send one (1) ballot to each member of the Idaho State Bar. Ballots shall be returned to the Executive Director within fifteen (15) days after the date the ballot was sent to each member. Envelopes containing voted ballots shall be signed by the voting member. The Board shall constitute the canvassing committee for the referendum ballots. Canvassing shall be performed at the Board meeting following the closing of balloting and the Board shall declare the majority vote to be the opinion of the Idaho State Bar on said question and publish the same.
- (l) **Emergency Time-Sensitive Decisions.** If the Idaho Supreme Court or Board determines that ~~an emergency exists and that~~ the decision of the Idaho State Bar members is needed on any time-sensitive question regarding a matter referenced in Rule 906(a), the Board may ~~call a meeting of or otherwise canvass the delegates of the district bar associations last appointed to attend the December meeting of the district bar association delegates or any alternate designated by the district bar association president, and upon a majority vote as provided in Rule 906(c), may either adopt a resolution or~~ submit a question for vote to the eligible voting members of the Idaho State Bar as defined in Rule 906(c), using the voting procedure as provided set forth in Rule 906(~~ed~~)(2).

RESOLUTION 23 - 04
Amendments to Section IV of the Idaho Bar Commission Rules - MCLE Application Fees

Presented by: Board of Commissioners of the Idaho State Bar

Rationale:

- Idaho Bar Commission Rule (“I.B.C.R.”) 405, Processing Applications for Accreditation, provides that all applications for accreditation of a CLE activity in Idaho shall be accompanied by a \$40 application fee. If a CLE activity is sponsored by a non-profit entity, is less than two hours in length, and is held in-person in Idaho, the application fee is \$20. Idaho attorneys, Idaho courts, the Idaho State Bar (“ISB”) and its practice sections, district bar associations, and the Idaho Law Foundation do not pay an application fee. The application fees have not increased since 2004.
- I.B.C.R. 403(b)(2)(B) provides for a \$15 late fee when an application is submitted more than ninety days after the CLE activity concluded. The late fee was implemented in 2016.
- In 2018, the ISB received 5,043 applications for CLE accreditation, including 2,838 submitted by commercial CLE course providers. In 2022, the number of applications rose to 6,010, including 4,059 submitted by commercial course providers. The number of total applications submitted has increased by 19.2% in five years, and the number of applications submitted by commercial course providers has increased by 43%.
- The Board of Commissioners recommends amending the rule to provide a reduced application fee for Idaho-based legal affinity groups to better promote educational opportunities specific to Idaho attorneys.
- The Board of Commissioners recommends that Idaho attorneys, Idaho courts, the ISB and its practice sections, district bar associations, and the Idaho Law Foundation continue to be permitted to submit applications for accreditation of CLE activities for free.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners recommends that the members of the Idaho State Bar recommend to the Idaho Supreme Court that Section IV of the Idaho Bar Commission Rules be amended to change certain MCLE application fees.

***RULE 401. Definitions.** As used in these Rules, the following terms have the meanings set forth below:

- (a) **Accredited Activity.** A course, video, recording or other activity approved for CLE credit by the Board or its designee.
- (b) **Active or Active Member.** A member of the Bar as defined in I.B.C.R. 301.
- (c) **Affinity Group.** An Idaho-based legal group organized to promote the common interests of certain members of the Bar.

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RULE 403. Accreditation.

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*(b) **Accreditation.** A person or Course Provider may apply for accreditation of a CLE activity by filing with the Executive Director a written application on a form prescribed by the Board.

....

(2) **Time of Filing.**

(A) The application may be filed prior to the CLE activity.

(B) An application filed more than ninety (90) days after the CLE activity is completed shall be accompanied by a ~~fifteen~~twenty-five dollar (~~\$15~~\$25) late fee.

....

RULE 405. Processing Applications for Accreditation. Applications for accreditation under Rule 403(b) shall be submitted to the Executive Director.

*(a) **Application Fee.** All applications for accreditation of CLE activities shall be accompanied by a ~~seventy-five~~forty dollar (~~\$75~~\$40) application fee, provided:

(1) Applications submitted by ~~non-profit Course Providers for live CLE activities that are two (2) hours or less in length and held in Idaho~~Affinity Groups shall be accompanied by a ~~twenty~~fifty dollar (~~\$25~~\$50) application fee; and

(2) No application fee is required for accreditation applications submitted by the Supreme Court, the Bar and its sections or district bar associations, the Idaho Law Foundation, Inc., or individual members of the Bar.

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To review the complete Idaho Bar Commission Rules 400-405, click [here](#).

RESOLUTION 23 - 05

Amendments to Section V of the Idaho Bar Commission Rules – Reimbursement as a Condition of Reinstatement

Presented by: Board of Commissioners of the Idaho State Bar

Rationale:

- Lawyers seeking reinstatement after a period of disciplinary suspension are not currently required, as a condition of reinstatement, to reimburse the Idaho State Bar for amounts awarded to the Bar in the underlying disciplinary proceeding. Lawyers are also not required, as a condition of reinstatement, to reimburse the Client Assistance Fund for funds paid by the Fund based on the lawyer's dishonest conduct.
- The proposed revisions to Idaho Bar Commission Rule 518 provide that for purposes of reinstatement, a lawyer who has been disciplinary suspended must demonstrate that he or she has reimbursed any amounts owed to the Idaho State Bar for the underlying disciplinary proceeding and has reimbursed the Client Assistance Fund for any amounts paid on claims for the lawyer's dishonest conduct.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners recommends that the members of the Idaho State Bar recommend to the Idaho Supreme Court that Section V of the Idaho Bar Commission Rules be amended to require reimbursement as a condition of a lawyer's reinstatement to the practice of law after a period of disciplinary suspension.

RULE 518. Reinstatement after Suspension.

- (a) **Reinstatement after Suspension of 90 Days or Less.** A lawyer who has been suspended for 90 days or less pursuant to disciplinary proceedings shall be reinstated at the end of the period of suspension by filing with the Supreme Court and serving upon Bar Counsel an affidavit stating he or she has complied fully with the requirements of the suspension order, and has paid any required fees and costs, and has reimbursed the Bar for any amounts owed related to the disciplinary proceedings and, if applicable, for any amounts paid from the Client Assistance Fund based on the lawyer's dishonest conduct.
- (b) **Reinstatement after Suspension for More Than 90 Days.** A lawyer suspended for more than 90 days may be readmitted upon showing that he or she has the moral qualifications, competency and learning in the law for admission to practice law in this State, that his or her resumption of the practice of law within this State will not be detrimental to the integrity of the Bar, to the administration of justice or against the public interest, and that he or she has reimbursed the Bar for any amounts owed related to the disciplinary proceedings and, if applicable, for any amounts paid from the Client Assistance Fund based on the lawyer's dishonest conduct.

To review the complete Idaho Bar Commission Rule 518, click [here](#).

RESOLUTION 23 - 06

Amendments to Section III of the Idaho Bar Commission Rules – Retired Judicial Member Presented by: Board of Commissioners of the Idaho State Bar

Rationale:

The proposed change to I.B.C.R. Section III Licensing, creates a new status specific to members of the Idaho Judiciary who retire from the bench and do not intend to practice law.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners recommends that the members of the Idaho State Bar recommend to the Idaho Supreme Court that Section III of the Idaho Bar Commission Rules be amended to include a retired judicial licensing status.

RULE 301. Definitions. The following capitalized terms shall have the meanings set forth below:

(r) Retired Judicial. A former Judicial Member who previously qualified for judicial membership under IBCR 301(n) and is not licensed to practice law in Idaho.

~~(rs)~~ **Rules.** Section III of the I.B.C.R.

~~(st)~~ **Senior or Senior Member.** A member of the Bar aged sixty-five (65) years or older who is not licensed to practice law in Idaho and has been granted Senior status under Rule 302(d).
(*Section (s) amended 2-25-16 – effective 7-1-16)

~~(tu)~~ **State.** State of Idaho.

~~(uv)~~ **Transfer.** Change in membership status.

RULE 302. Licensing Requirements. Following admission as a member of the Bar, an attorney may maintain membership as follows:

(b) Inactive-~~or~~, Emeritus or Retired Judicial Member.

- (1) An Inactive-~~or~~, Emeritus or Retired Judicial Member of the Bar may maintain membership by payment of the annual license fee required by Rule 304 and verification of the attorney's membership information under Rule 303.

RULE 304. Annual License Fees. Maintenance of membership in the Bar shall require payment of a non-refundable annual license fee payable on or before February 1, as prescribed below:

(c) Inactive-~~and~~, Emeritus and Retired Judicial Members.

- (1) One hundred fifty dollars (\$150) in each full calendar year after admission.
- (2) Seventy dollars (\$70) for Emeritus and Retired Judicial Members aged sixty-five (65) years or older.

RULE 306. Transfer.

(b) Transfer to Inactive, Senior-~~or~~, Emeritus or Retired Judicial Status.

- (1) Members seeking to Transfer to Inactive-~~or~~, Senior or Retired Judicial status shall:

- (A) Submit a written request to the Bar; and
- (B) Comply with the licensing requirements under Rule 302.
- (2) Members seeking to Transfer to Emeritus status shall:
 - (A) Submit a written request to the Bar;
 - (B) Comply with the licensing requirements under Rule 302; and
 - (C) Comply with I.B.C.R. 228.
- (3) Transfer from Emeritus status to Inactive ~~or~~ Senior or Retired Judicial status is permissible only if the attorney was admitted to the Bar prior to being granted a limited license as an Emeritus Member.
- (4) Transfer from Active to Inactive or Emeritus status during the final year of the attorney's MCLE reporting period does not eliminate the reporting requirement for that reporting period.

To review the complete Idaho Bar Commission Rules 300-306, click [here](#).