Idaho Bar Commission Rules

Governing Admission to Practice and Membership in the Idaho State Bar

As promulgated by the Board of Commissioners of the Idaho State Bar and adopted by Order of the Supreme Court of the State of Idaho.

*SECTION II
Admissions

*(*Section II rescinded and replaced 5-4-10 – effective 8-1-10)*

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

(a) **Active Practice of Law**. The practice of law following admission to practice before the highest court of any state or territory of the United States or the District of Columbia as a licensed active member of a jurisdiction in which the Applicant is admitted, the equivalent of an active member as defined in I.B.C.R 301, meaning the attorney is permitted to practice law in the state while so licensed.

(b) **Admissions Rules.** Idaho Bar Commission Rules 200 through 229.

(c) **Applicant.** A person requesting admission to practice law in Idaho.

(d) **Application.** Application for bar examination and admission to practice law in Idaho.

(e) **Approved Law School.** A law school which is fully or provisionally approved by the American Bar Association pursuant to ABA Standards and Rules of Procedure for Approval of Law Schools, as amended.

(f) **Attorney Applicant.** An Applicant for admission under Rule 205.

(g) **Bar.** The Idaho State Bar.

(h) **Bar Counsel.** Legal counsel for the Board of Commissioners of the Bar.

(i) **Board.** The Board of Commissioners or the duly elected governing body of the Bar.

(j) **CF Committee.** The Character and Fitness Committee as provided in Rule 209.

(k) **Executive Director.** The chief administrative officer of the Bar.

(l) **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.

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

(n) **RA Committee.** The Reasonable Accommodations Committee as provided in Rule 213.

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

(p) **Request.** A request for reasonable accommodations for testing.

(q) **Student Applicant.** An Applicant for admission that has not been admitted to practice law in any jurisdiction.

(r) **Supreme Court.** The Supreme Court of the State of Idaho.

*(s) **Uniform Bar Examination.** All Idaho Bar Examination components taken in the same administration of the exam. A UBE score may be portable to other jurisdictions that have adopted UBE rules.

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

RULE 201. Essential Eligibility Requirements to Practice Law. In addition to the successful completion of a degree from an Approved Law School, the successful completion of the bar examination, and not having otherwise been disqualified under Rule 210, the Applicant must meet the following essential eligibility requirements to practice law:

(a) The ability to be honest and candid with clients, lawyers, courts, the Board and others;

(b) The ability to reason, recall complex factual information, and integrate that information with complex legal theories;

(c) The ability to communicate with clients, lawyers, courts and others with a high degree of organization and clarity;

(d) The ability to use good judgment on behalf of clients and in conducting one's professional business;

(e) The ability to conduct oneself with respect for and in accordance with the law;

(f) The ability to avoid acts which exhibit disregard for the rights or welfare of others;

(g) The ability to comply with the requirements of the Idaho Rules of Professional Conduct, applicable state, local and federal laws, regulations, statutes and any applicable order of a court or tribunal;

(h) The ability to act diligently and reliably in fulfilling one's obligations to clients, lawyers, courts and others;

(i) The ability to act honestly and use good judgment in financial dealings on behalf of oneself, clients and others; and

(j) The ability to comply with deadlines and time constraints.

RULE 202. Qualifications for Admission.

(a) **Qualifications.** Before receiving permission to take the bar examination and for admission to practice law in Idaho, the Applicant must:

(1) Be at least eighteen years of age;

(2) Be lawfully admitted to this country;

(3) Have, or will have received, a juris doctorate or bachelor of laws degree or an equivalent basic law degree from an Approved Law School. Submission of a law school transcript in a form satisfactory to the Board shall be considered compliance with this Rule;

(4) Have demonstrated the essential eligibility requirements to practice law pursuant to Rule 201 and have met all requirements in the Admission Rules; and

(5) Be a person of good moral character.

(b) **Multistate Professional Responsibility Examination (MPRE).** Prior to taking the Idaho bar examination, or within the next two scheduled MPRE administrations after successfully completing the Idaho bar examination, the Applicant must take the MPRE and receive a minimum scaled score of 85 or such other minimum scaled score as the Board may establish.

(c) **Duty to Supplement.** All Applicants must supplement their Application with relevant character and fitness information until admitted to practice law in Idaho.

RULE 203. Application for Admission.

(a) **Form and Content of Application**. Applications shall be on forms prescribed by the Board and shall include authorizations and releases to enable the Board to obtain information concerning the Applicant. All forms of authorization and release executed by the Applicant shall terminate:
   (1) Upon the Bar's receipt of notice of withdrawal of the Application;
   (2) Upon the Applicant's receipt of notice that the Bar has denied the Application; or
   (3) Upon admission to the Bar.

(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 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 Applicant: $1000
      (D) House Counsel Applicant: $800
   (2) **Additional Fees**.
      (A) Late Application Fee. The late Application fee is $200.
      (B) Investigation Fee. In the event the Board or CF Committee determines that an investigation of any Applicant beyond the usual investigation provided for in Rule 208 is required, the Board or CF Committee may require the payment of an additional investigation fee, including but not limited to, the cost of any record or document required by the Board or CF Committee related to its investigation of the Applicant. The Board and CF Committee shall not proceed with further investigation and the Applicant may not be admitted until the additional investigation fee is paid and the investigation of the Applicant's character and fitness is completed.
      (C) Administrative Fees. The Board may assess additional administrative fees to be paid by Applicants for test-taking options.
   (3) **No Refunds.** No refund, in whole or in part, shall be made of any fee.

*(*Section (c) amended 3-17-14 – effective 5-2-14)*

(d) **Withdrawal.** An Application may be withdrawn at any time prior to the first day of the bar examination. Reciprocal 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 204. Disclosure – Complete Application.

(a) **Disclosure.** No one shall be licensed who fails to fully disclose to the Board all information requested of an Applicant on the Application or by the Board or CF Committee.

(b) **Complete Application**. An Application is considered complete when the Bar is satisfied that it has received full and sufficient responses to every question in the Application and all required or requested supporting information and documentation.
   (1) **Deadlines.** All Application materials, including any requested additional information, must be received by the Bar no later than January 15 for the February bar examination and June 15 for the July bar examination.
   (2) **Failure to Complete Application.** An Applicant whose Application is incomplete shall not be allowed to take the bar examination.
   (3) **Further Consideration.** Further consideration of an Application that has been deemed incomplete shall require the submission of a complete Application and payment of an additional $100 fee.

RULE 205. Attorney Applicants.

(a) **Proof of Admission**. In addition to meeting the requirements set forth in Rules 202, 203 and 204, an Attorney Applicant must provide proof, satisfactory to the Board, of admission to practice law before the highest court of a state or territory of the United States or the District of Columbia.

RULE 206. Reciprocal Applicants.

*(a) **Qualifications.** In order to be admitted to practice law without taking the Idaho bar examination, a 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 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; or
      (C) 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 Applicants shall be admitted as provided in Rule 220.

RULE 207. Foreign Legal Consultants. A person licensed to practice law in a foreign jurisdiction as an attorney or counselor at law or the equivalent thereof, and who complies with the provisions of this rule for licensing Foreign Legal Consultants, may advise on the law of that foreign jurisdiction in the State of Idaho only to the extent allowed by this rule. Although a person licensed as a Foreign Legal Consultant under this rule shall be subject to the provisions of the Idaho Rules of Professional Conduct, the Idaho Bar Commission Rules and other rules adopted by the Supreme Court, such person shall not be considered an Idaho attorney or an active member of the Bar.

(a) **General Regulation as to Licensing.** In its discretion, the Supreme Court may license to practice in Idaho as a Foreign Legal Consultant, without bar examination, an Applicant who:
  (1) is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;
  (2) for at least five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession and has actually been engaged in the practice of law in the said foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the said foreign country;
  (3) possesses the good moral character and general fitness requisite for a member of the bar of Idaho; and
  (4) intends to practice as a Foreign Legal Consultant in Idaho and maintains an office in Idaho for that purpose.

(b) **Proof Required.** An Applicant under this rule shall file with the Bar:
  (1) a certificate from the professional body or public authority in such foreign country having final jurisdiction over professional discipline, certifying as to the Applicant's admission to practice and the date thereof, and as to his or her good standing as such attorney or counselor at law or the equivalent;
  (2) a letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction of such foreign country;
  (3) a duly authenticated English translation of such certificate and such letter if, in either case, it is not in English; and
  (4) such other evidence as to the Applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of section (a) of this rule as the Supreme Court may require.

(c) **Reciprocal Treatment of Members of the Bar of Idaho.** In considering whether to license an Applicant to practice as a Foreign Legal Consultant, the Supreme Court may in its discretion take into account whether a member of the Bar would have a reasonable and practical opportunity to obtain similar licensure for the giving of legal advice to clients in the Applicant's country of admission. Any member of the Bar who is seeking or has sought to obtain similar licensure in that country may request the Supreme Court to consider the matter, or the Supreme Court may do so sua sponte.

(d) **Scope of Practice.** A person licensed to practice as a Foreign Legal Consultant under this rule may render legal services in Idaho only with respect to the law of the foreign country in which such person is admitted to practice law subject, however, to the limitations that he or she shall not:
  (1) appear for another person as an attorney in any court, or before any magistrate or other judicial officer, in Idaho, other than upon admission pro hac vice pursuant to Rule 227;
  (2) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;
  (3) prepare:
    (A) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or
    (B) any instrument relating to the administration of a decedent's estate in the United States of America;
  (4) prepare any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident;
  (5) render professional legal advice on the law of Idaho or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise) except on the basis of advice from a person duly qualified and entitled (otherwise than by virtue of having been licensed under this rule) to render professional legal advice in Idaho;
  (6) be, or in any way hold himself or herself out as, a member of the bar of Idaho; or
  (7) carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:
    (A) his or her own name;
    (B) the name of the law firm with which he or she is affiliated, in each case only in conjunction with the title "Foreign Legal Consultant" as set forth below;
    (C) his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country, in each case only in conjunction with the title "Foreign Legal Consultant" as set forth below; and
    (D) the title "Foreign Legal Consultant," which may be used in conjunction with the words "admitted to the practice of law in [the name of the foreign country of his or her admission to practice]".

(e) **Rights and Obligations.** Subject to the limitations set forth in this rule, a person licensed as a Foreign Legal Consultant under this rule shall be considered an attorney affiliated with the bar of Idaho and shall be entitled and subject to:
  (1) the rights and obligations set forth in the Idaho Rules of Professional Conduct and/or arising from the other conditions and requirements that apply to a member of the bar of Idaho under the Idaho Bar Commission Rules and/or other rules adopted by the Supreme Court; and
  (2) the rights and obligations of a member of the bar of Idaho with respect to:
    (A) affiliation in the same law firm with one or more members of the bar of Idaho, including by:
      (i) employing one or more members of the bar of Idaho;
      (ii) being employed by one or more members of the bar of Idaho or by any partnership, corporation or limited liability company which includes members of the bar of Idaho or which maintains an office in Idaho; and
      (iii) being a partner in any partnership, shareholder in any corporation or member in any limited liability company which includes members of the bar of Idaho or which maintains an office in Idaho; and

(B) attorney-client privilege, work-product privilege and similar professional privileges.

(f) **Disciplinary Provisions.** A person licensed to practice as a Foreign Legal Consultant under this rule shall be subject to professional discipline in the same manner and to the same extent as members of the bar of Idaho and to this end:

(1) Every person licensed to practice as a Foreign Legal Consultant under these rules:

(A) shall be subject to discipline by the Supreme Court consistent with the Idaho Rules of Professional Conduct and the Idaho Bar Commission Rules; and

(B) prior to practicing as a Foreign Legal Consultant shall execute and file with the Bar, in such form and manner as the Supreme Court may prescribe:

(i) his or her commitment to observe the Idaho Rules of Professional Conduct and other rules adopted by the Supreme Court to the extent applicable to the legal services authorized under section (d) of this rule;

(ii) an undertaking or appropriate evidence of professional liability insurance, in such amount as the Supreme Court may prescribe, to assure his or her proper professional conduct and responsibility;

(iii) a written undertaking to notify the Bar and Supreme Court of any change in such person's good standing as a member of the foreign legal profession referred to in section (a)(1) of this rule and of any final action of the professional body or public authority referred to in section (b)(1) of this rule imposing any disciplinary censure, suspension, or other sanction upon such person; and

(C) a duly acknowledged instrument, in writing, setting forth his or her physical residence or business address in Idaho and designation of the Clerk of the Supreme Court as his or her agent upon whom process may be served, with like effect as if served personally upon him or her, in any action or proceeding thereafter brought against him or her and arising out of or based upon any legal services rendered or offered to be rendered by him or her within or to residents of Idaho, whenever after due diligence service cannot be made upon him or her at such address or at such new address in Idaho as he or she shall have filed in the office of such clerk by means of a duly acknowledged supplemental instrument in writing.

(2) Service of process on the Clerk of the Supreme Court, pursuant to the designation filed as aforesaid, shall be made by personally delivering to and leaving with such Clerk of the Supreme Court, or with a deputy or assistant authorized by him or her to receive such service, at his or her office, duplicate copies of such process together with a fee of $10. Service of process shall be complete when such Clerk of the Supreme Court has been so served. Such Clerk of the Supreme Court shall promptly send one of such copies to the Foreign Legal Consultant to whom the process is directed, by certified mail, return receipt requested, addressed to such Foreign Legal Consultant at the address specified by him or her as aforesaid.

*(g) **Application and Renewal Fees.** An Applicant for a license as a Foreign Legal Consultant under this rule shall pay an Application fee, which shall be equal to the fee required to be paid by a person applying for admission as an attorney Applicant of the Bar. A person licensed as a Foreign Legal Consultant shall comply with the active licensing requirements pursuant to I.B.C.R. 302. Failure to comply with the licensing requirements reflected in I.B.C.R. 304 will result in immediate cancellation of licensure as a Foreign Legal Consultant.

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

(h) **Revocation of License.** In the event that the Supreme Court determines that a person licensed as a Foreign Legal Consultant under this rule no longer meets the requirements for licensure set forth in this rule, or has failed to meet the obligations imposed by this rule, it shall revoke the license granted to such person.

(i) **Admission to Bar.** In the event that a person licensed as a Foreign Legal Consultant under this rule is subsequently admitted as a member of the bar of Idaho under the provisions of the rules governing such admission, the license granted to such person hereunder shall be deemed superseded by the license granted to such person to practice law as a member of the bar of Idaho.

(j) **Application for Waiver of Provisions.** The Supreme Court, upon application, may in its discretion vary the application or waive any provision of this rule where strict compliance will cause undue hardship to the Applicant. Such application shall be in the form of a verified petition setting forth the Applicant's name, age and residence address, the facts relied upon and a prayer for relief.

RULE 208. Investigation of Applicants.

(a) **Authority to Investigate.** The Board shall investigate each Applicant's character and fitness to practice law in such manner as the Board deems appropriate.

(b) **Reference of Application for Investigation.** The Board may refer any Application to the CF Committee or Bar Counsel for the purpose of investigating and making recommendations on any matter connected with the Application.

(c) **Character and Fitness Examination.** Upon reasonable notice, an Applicant may be required to appear before the Board, CF Committee or Bar Counsel and submit to a character and fitness examination regarding any matter deemed relevant by the Board, CF Committee or Bar Counsel to a proper consideration of the pending Application. The examination shall be reported by a court reporter. The Applicant shall be responsible for the court reporter's fee and transcription costs and shall not be admitted to practice law unless the Bar is reimbursed for such fee and costs. Failure to appear before the Board, CF Committee or Bar Counsel as noticed shall result in denial of the Application.

RULE 209. Character and Fitness Committee.

(a) **Establishment and Membership of Committee.** The Board shall appoint a nine-member committee to be known as the CF Committee which shall consist of seven members in good standing of the Bar and two non-lawyer members. Members of the CF Committee shall serve for terms of three years, provided that appointments shall allow for staggered terms. Vacancies during a term shall be filled by the Board for the remainder of the unexpired term.

(b) **Officers.** The Board shall designate one member of the CF Committee as Chair. The Chair shall be responsible for calling and presiding over meetings of the CF Committee and may designate subcommittees. The Chair or the Chair's designee shall sign all recommendations to the Board. The Executive Director shall provide a Secretary to the CF Committee.

(c) **Powers and Duties.** The CF Committee and designated subcommittees of the CF Committee shall have the power and duty to:

(1) Receive and consider Applications and supporting materials;

(2) Request or require other documentation, evaluation or testing and other materials relevant to Applications;

(3) Receive and consider Rule 211 objections referred by the Board;

(4) Conduct Rule 208 examinations; and

(5) Submit to the Board its findings of facts, conclusions of law and recommendation regarding any denial or conditional admission.

(d) **Subcommittees.** A subcommittee may consider and, acting unanimously, approve an Application. A subcommittee decision that is not unanimous shall be referred to the CF Committee.

(e) **Meetings.** Five members of the CF Committee shall constitute a quorum. The CF Committee shall act upon each Application at a duly convened meeting at which a quorum is present, provided however, that members of the CF Committee may separately and without assembling in a meeting consider any Application and supporting documentation. Members may participate in meetings by telephone.

(f) **Decisions.** The CF Committee may approve or recommend denial or conditional admission of an Applicant. All decisions of the CF Committee must be by majority vote.

(g) **Compensation and Expenses.** Members of the CF Committee shall receive no compensation for their services but may be reimbursed for their travel and other expenses incidental to the performance of their duties.

(h) **Representation of Board.** Bar Counsel shall act as legal counsel to the Board and CF Committee.

RULE 210. Standards for Disqualification.

(a) The following shall constitute criteria for disqualification of an Applicant on character and fitness grounds:

(1) Conviction of a serious crime, as defined in I.B.C.R. 501;

(2) The adjudication of acts while a juvenile which, if done by an adult, would be a serious crime, as defined in I.B.C.R. 501, unless special circumstances excuse the Applicant;

(3) Any conduct which, in the judgment of the CF Committee or Board, demonstrates that the Applicant has exhibited conduct substantially evidencing an inclination to:

(A) Be dishonest;

(B) Take unfair advantage of others;

(C) Be disloyal to those to whom loyalty is legally owed;

(D) Be financially irresponsible in business, professional or personal matters;

(E) Support or advocate the overthrow of the government of the United States by force;

(F) Engage in the unauthorized practice of law;

(G) Violate reasonable rules of conduct governing any activity in which Applicant has been engaged;

(H) Fail to exercise substantial self-control, including excessive and continuing violation of traffic rules, improper use of drugs or excessive use of alcohol; or

(I) Be mentally or emotionally unstable to the extent that, in the opinion of the CF Committee or Board, the Applicant is not suited to practice law;

(4) The absence of one or more of the essential eligibility requirements to practice law as set forth in Rule 201; or

(5) Any conduct which the Supreme Court has considered as grounds for suspension or disbarment under I.B.C.R. 506.

(b) The following conduct will not, in and of itself, be considered as indicating a lack of character or fitness:

(1) Traffic violations, unless such violations involve substantial disregard of the rights or safety of others or evidence substantial or continuing lack of self-discipline;

(2) Boisterous or rowdy behavior; or

(3) Misconduct remote in time, unless the misconduct was felonious in nature or recently repeated in similar situations.

(c) A final decision having the legal effect of acquitting an Applicant of criminal charges shall not affect the right of the CF Committee or Board to give consideration to the Applicant's conduct.

RULE 211. Objection to Admission.

Any person may file an objection to the admission of an Applicant seeking admission to practice law in the State of Idaho.

(a) **Mode of Objection.** The objection shall be made in writing, signed by the person making the objection, and shall contain:

(1) A concise statement of the facts;

(2) Copies of all corroborating documentation; and

(3) The address and telephone number of the person making the objection.

(b) **Time and Place of Filing Objection.** The objection may be filed with the Executive Director at any time prior to the date the Applicant is certified by the Board for admission to the Supreme Court.

(c) **Procedure.** The procedure for processing objections shall be as follows:

(1) **Notice of Objection.** The Executive Director shall notify the Applicant of the objection.

(2) **Applicant Response.** The Applicant shall file a written response to the objection with the Executive Director within ten days following notice or may notify the Executive Director that the Applicant is withdrawing as a candidate for admission to practice law. The Executive Director shall forward a copy of the Applicant's response to the person making the objection within five days following receipt of the Applicant's response.

(3) **Investigation.** The Board may investigate any objection or refer the objection to the CF Committee or Bar Counsel for investigation and recommendation.

(4) **Action by CF Committee.** The CF Committee may recommend dismissal of the objection or enter findings of fact, conclusions of law and a recommendation of other action to the Board.

RULE 212. Conditional Admission.

(a) **Conditional Admission.** An Applicant who currently satisfies the essential eligibility requirements for admission to practice law, including fitness requirements, and who possesses the requisite character required for admission, may be conditionally admitted to practice law if the Applicant demonstrates recent rehabilitation from chemical dependency or successful treatment for mental or other illness, or from any other condition the Supreme Court deems appropriate, that has resulted in conduct or behavior that would otherwise have rendered the Applicant currently unfit to practice law, and the conduct or behavior, if it should recur, would impair the Applicant's current ability to practice law or would pose a threat to the public.

(b) **Procedure.** The CF Committee shall make conditional admission recommendations to the Board. The Board shall make recommendations to the Supreme Court. Those recommendations shall include recommended relevant conditions that an Applicant must comply with during the period of conditional admission. The Supreme Court has the authority to grant conditional admission based upon conditions the Supreme Court determines appropriate under the circumstances.

(c) **Conditions.** The CF Committee and the Board may recommend, and the Supreme Court may order, that an Applicant's admission be conditioned on the Applicant's complying with requirements that are designed to detect behavior that could render the Applicant unfit to practice law and to protect clients and the public. Conditions may include the following: alcohol, drug or mental health treatment; medical, psychological or psychiatric care; participation in group therapy or support; random chemical screening; office practice or debt management counseling; monitoring, supervision or mentoring; or other conditions deemed appropriate by the CF Committee, Board or Supreme Court. The conditions shall be tailored to detect recurrence of the

conduct or behavior which could render an Applicant unfit to practice law or pose a risk to clients or the public and to encourage continued abstinence, treatment or other support. The conditions should be established on the basis of clinical or other appropriate evaluations, take into consideration the recommendations of qualified professionals, when appropriate, and protect the privacy interests of the conditionally admitted attorney in professional treatment records to the extent possible. The conditions shall be set forth by the Supreme Court in a Conditional Admission Order. The Conditional Admission Order shall be made a part of the conditionally admitted attorney's Application file and shall remain confidential, except as provided in this and any other applicable rules.

(d) **Length of Conditional Admission.** The initial conditional admission period as established in the Conditional Admission Order shall not exceed sixty months.

(e) **Compliance with Conditional Admission Order.** During the conditional admission period, the CF Committee shall take such action as is necessary to monitor compliance with the terms of the Conditional Admission Order, including requiring an appearance before the CF Committee or Board, and requiring responses to requests for information by the CF Committee or Board.

(f) **Failure to Fulfill the Terms of Conditional Admission.** Failure of a conditionally admitted attorney to fulfill the terms of a Conditional Admission Order may result in modification of the order, including extension of the period of conditional admission, suspension or termination of the conditional admission or such other action as may be appropriate under the Admission Rules.

(g) **Violation of Conditional Admission Order.** If the Board determines that the conditions of the Conditional Admission Order have been violated, the Board shall cause Bar Counsel to initiate proceedings to determine whether the conditional admission should be terminated, extended or modified.

(h) **Termination.** The Bar may petition the Supreme Court for an order to show cause why the conditional license should not be immediately terminated. If a petition is filed:

(1) The Supreme Court shall examine the petition and determine whether a *prima facie* showing of a violation of the Conditional Admission Order has been demonstrated. If the Supreme Court determines that such a showing has been made, it shall immediately suspend the conditional license and Conditional Admission Order and issue an order to show cause why the conditional license should not be permanently terminated.

(2) The conditionally admitted attorney may indicate an intent to contest the termination of the conditional license by filing a verified response to the order to show cause, in which case the Supreme Court shall assign the matter to a special master or hearing officer for hearing and recommendation.

(3) Following the hearing, the special master or hearing officer may recommend, and the Supreme Court may order, the conditional admission be permanently terminated, extended or modified.

(4) The hearing shall be conducted as provided in I.B.C.R. 511, except that the order to show cause and verified response shall serve as the complaint and answer.

(i) **Expiration of Conditional Admission Order.**

(1) Unless the conditional admission is terminated or extended or a petition to terminate for a violation of a Conditional Admission Order is pending, the conditions imposed by the Conditional Admission Order shall expire upon completion of the period of conditional admission.

(2) At least sixty days prior to the expiration of the conditional license, a conditional licensee may apply for a renewal of the conditional license or for a regular license to practice law by filing a written request with the Bar.

(j) **Confidentiality.** Except as otherwise provided herein, and unless the Supreme Court orders otherwise, the fact that an individual is conditionally admitted and the terms of the Conditional Admission Order shall be confidential, provided that the Applicant shall disclose the entry of any Conditional Admission Order to the admissions authority in any jurisdiction where the Applicant applies for admission to practice law. These provisions for confidentiality shall not prohibit or restrict the ability of the Applicant to disclose to third parties that the Applicant has been conditionally admitted under this rule, nor prohibit requiring third-party verification of compliance with terms of conditional admission by admission authorities in jurisdictions to which the conditionally admitted attorney may subsequently apply.

RULE 213. Reasonable Accommodations Committee.

(a) **Establishment and Membership of Committee.** The Board shall appoint a three-member committee to be known as the RA Committee which shall consist of two members in good standing of the Bar and one non-lawyer member. Members of the RA Committee shall serve for terms of three years, provided that appointments shall allow for staggered terms. Vacancies during a term shall be filled by the Board for the remainder of the unexpired term.

(b) **Officers.** The Board shall designate one member of the RA Committee as Chair. The Chair shall be responsible for calling and presiding over meetings of the RA Committee. The Chair or the Chair's designee shall sign all recommendations to the Board. The Executive Director shall provide a Secretary to the RA Committee.

(c) **Powers and Duties.** The RA Committee shall have the power and duty to:

(1) Receive and consider Requests and any materials relevant to the Request; and

(2) Submit to the Board its findings of fact, conclusions of law and recommendation to deny or modify a Request.

(d) **Meetings.** Two members of the RA Committee shall constitute a quorum. The RA Committee shall act upon each Request at a duly convened meeting at which a quorum is present, provided however, that members of the RA Committee may separately and without assembling in a meeting consider any Request and supporting documentation. Members may participate in meetings by telephone.

(e) **Decisions.** The RA Committee may approve Requests or recommend denial or modification of requests. All decisions of the RA Committee must be by majority vote.

(f) **Compensation and Expenses.** Members of the RA Committee shall receive no compensation for their services but may be reimbursed for their travel and other expenses incidental to the performance of their duties.

(g) **Representation of Board.** Bar Counsel shall act as legal counsel to the Board and RA Committee.

RULE 214. Reasonable Accommodations.

(a) **Standards.** The following shall constitute criteria for the consideration of Requests:

(1) "Reasonable accommodations" means an adjustment or modification of the standard testing conditions that ameliorates the impact of the Applicant's Disability without doing any of the following:

(A) Fundamentally altering the nature of the bar examination or the Bar's ability to determine through the bar examination whether the Applicant possesses the essential eligibility requirements to practice law in Idaho;

(B) Imposing an undue burden on the Bar;
(C) Compromising the security of the bar examination; or
(D) Compromising the validity of the bar examination.

(2) "Disability" means:
(A) A physical or mental impairment that substantially limits one or more of the major life activities of the Applicant;
(B) A record of having such impairment; or
(C) A record of having been regarded as having such an impairment.

(3) "Mental impairment" means a mental or psychological disorder generally recognized by the medical community.

(4) "Physical impairment" means a disorder or condition or anatomical loss affecting one or more of the body's systems.

(b) **Requests.** Except an emergency Request under subsection (c) below, Requests must be submitted on forms prescribed by the Board by the late Application deadline set forth in Rule 203. The Applicant shall provide all information requested by the Board or RA Committee.

(c) **Emergency Request.** If an Applicant becomes disabled after the timely submission of an Application and such Applicant seeks reasonable accommodations for testing because of that Disability, the Applicant may file an emergency Request on forms prescribed by the Board.

RULE 215. Action by Board.

(a) **Following Committee Recommendations.** After receiving the recommendations of the CF Committee, the RA Committee or Bar Counsel, or on its own motion, the Board may:
(1) Approve the Application or Request;
(2) Issue an order denying or modifying the Application or Request;
(3) Issue a recommendation of conditional admission; or
(4) Request further investigation.

(b) **Finality of Order.** The Board's decision to approve, deny or modify an Application or Request shall be final unless the Applicant requests a show cause hearing. The Board's recommendation of a conditional admission is reviewable under Rule 216(i).

(c) **Notice of Board Action.** The Executive Director shall notify the Applicant of the Board's action, and cause the same to be served upon the Applicant personally or by certified mail, return receipt requested. Notice shall be deemed complete on the date of receipt as noted on the return of service or return receipt.

(d) **Show Cause Hearing.** An Applicant may request a show cause hearing of any order denying or modifying an Application or Request or a recommendation for conditional admission, by filing with the Executive Director a written petition within twenty-one days after the Applicant has received notice of the Board's action. Show cause hearings shall be reported by a court reporter.

(e) **Record.** The record as developed by the CF Committee or RA Committee shall be provided to the Applicant and Bar Counsel prior to the show cause hearing.

(f) **Hearing.**
(1) The show cause hearing shall be scheduled at a time convenient to the Applicant and the Board. The Executive Director shall give the Applicant written notice of any show cause hearing at least fourteen days in advance of the hearing, stating the date, time and place of the hearing. The notice shall advise the Applicant that he or she may personally appear at the hearing and is entitled to be represented by counsel and to cross-examine witnesses and present evidence.
(2) The hearing shall be conducted in an informal manner reasonably calculated to protect the rights of the Applicant and the Board.
(3) Additional evidence may be offered at the hearing.
(4) The Board may appoint a hearing officer to conduct a show cause hearing and make a recommendation to the Board.

(g) **Decision.** The Board shall enter its decision within fourteen days of receipt of the transcript of the show cause hearing. Board decisions following a show cause hearing are final unless the Applicant files a petition for review with the Supreme Court as provided in Rule 216. Conditional admission recommendations shall be forwarded to the Supreme Court as provided in Rule 216.

RULE 216. Review by the Supreme Court.

(a) **Petition for Review.** Following a show cause hearing, an Applicant may petition for Supreme Court review of the denial of an Application or Request, modification of an Application or Request, or a conditional admission recommendation.

(b) **Standard of Review.** The standard of review on all petitions is arbitrary and capricious.

(c) **Procedure for Filing.** The Applicant must:
(1) File a verified petition for review setting forth with particularity the facts and acts upon which the petition is based, together with an original and six copies with the Clerk of the Supreme Court;
(2) Pay a filing fee to the Clerk of the Supreme Court as provided in Idaho Code sections 1-402 and 1-2003; and
(3) Serve one copy of the petition on Bar Counsel.

(d) **Time for Filing**. Any petition for review shall be filed with the Clerk of the Supreme Court and served upon Bar Counsel within twenty-one days from the date of receipt of the notice of the adverse action or determination.

(e) **Record of Show Cause Hearing.** Within fourteen days after filing the petition for review, the Bar shall file the transcript and record of the show cause hearing with the Clerk of the Supreme Court.

(f) **Answer of Board.** Within fourteen days from the date of filing the record, the Board shall file a responsive pleading.

(g) **Hearing and Arguments.** The Supreme Court may make its determination solely from the pleadings filed or may order a hearing for purposes of receiving additional evidence or oral argument.

(h) **Relief Granted.** If a petition is granted review following de novo review, the Supreme Court shall grant relief as it deems appropriate.

(i) **Consideration of Conditional Admission.** Upon receipt of the Board recommendation of conditional admission as provided in Rule 212, the Supreme Court shall consider the matter as follows:
(1) If the Applicant did not request a show cause hearing before the Board, or following the show cause hearing the Applicant did not file a petition, the matter shall be considered submitted and the Supreme Court may consider the Board's findings of fact, conclusions of law and recommendation and motion without further input;
(2) If a show cause hearing was conducted, and the Applicant objects to the Board's recommendation, the Applicant shall file a petition as set forth in subsection (c) above.
(3) The Supreme Court may:
(A) Issue an order on the basis of the existing record;
(B) Request briefs and/or oral argument;
(C) Remand the matter to the Board for further consideration; or
(D) Take other action as it deems appropriate.

*RULE 217. Bar Examination.

(a) **Examination Required.** Except as otherwise provided in this Rule, all Applicants, except 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.

(d) **Transfer of UBE or MBE Score**. Applicants for admission by examination may transfer a UBE scaled score of 272 or above earned during the February 2017 bar exam or any exam thereafter from another UBE jurisdiction if taken within the last 37 months. An Applicant may transfer an MBE score from any jurisdiction if taken within the last 37 months prior to the date of the Idaho bar examination for which they are applying. Applicants who failed a prior Idaho bar examination may transfer an MBE score from a prior Idaho bar examination if taken within the last 37 months prior to the date of the bar examination for which they are applying. An Applicant who elects not to transfer a prior score and chooses to sit for that MBE may not subsequently substitute a prior score on that bar examination. Applicants who transfer an MBE score are not eligible to receive a transferable UBE score.

(e) **Certificate Permitting the Bar Examination.** The Executive Director shall provide the Applicant with a certificate permitting the Applicant to take the bar examination if:

(1) No Rule 211 written objection has been filed; and

(2) The Applicant meets the bar examination and admission requirements.

(f) **Entry to Bar Examination.** No Applicant shall be permitted to take the bar examination unless a valid certificate duly issued by the Bar is presented.

(g) **Validity.** A certificate permitting bar examination shall be valid only for the bar examination for which it is issued.

(h) **Supervision of Examinations.** Bar examinations shall be supervised by the Board through the Executive Director. The Executive Director may appoint proctors and monitors to conduct each bar examination. No extra time shall be given for an Applicant who is late for any session of the bar examination.

(i) **Bar Examination Code of Conduct.** Applicants shall abide by the rules and instructions governing the administration of the bar examination.

(1) An Applicant shall not:

(A) Falsify any documentation required for admission to the bar examination;

(B) Read questions on the bar examination prior to the announcement to begin the bar examination;

(C) Utilize unauthorized notes, books, recordings, electronically retrievable data or other unauthorized materials while taking the bar examination;

(D) Use answers or information from other Applicants while taking the bar examination;

(E) Provide answers or information to other Applicants while taking the bar examination;

(F) Remove from the bar examination room, during or after the bar examination, questions, answer sheets or other materials relating to any part of the bar examination;

(G) Continue to answer questions after the announcement to stop is given;

(H) Communicate the substance of any question to other Applicants still taking the bar examination;

(I) Communicate the substance of any question to persons who are employed by or associated with bar review courses;

(J) Disregard instructions given by the proctors or monitors during the course of the bar examination or cause generalized disruption of the bar examination;

(K) Identify themselves by submitting their identification numbers or names on a response to any question or attempt to influence the grading of their bar examinations in any manner; or

(L) Otherwise compromise the security or integrity of the bar examination.

(2) Applicants who violate this Code of Conduct, or who knowingly assist another Applicant in a violation, shall be given an automatic failing score on the entire bar examination. The circumstances of such violation may be considered by the Board as grounds for barring the Applicant from retaking the bar examination.

(j) **Handling of Bar Examination Papers.** At the beginning of each bar examination session, the Applicants shall be given a copy of the questions to be answered at that session. Applicants typing answers to the essay questions shall utilize the secure software approved by the Board. Written answers to the essay questions shall be written in ink on paper supplied by the Board. All questions must be labeled and numbered as instructed.

(k) **Grading of the Bar Examination.** Bar examinations, including any incomplete bar examination, shall be graded and reviewed under the direction of the Board in accordance with the Bar Examination Grading Standards and Procedures adopted by the Supreme Court.

(1) **Identification.** An identification procedure which ensures anonymity of all Applicants shall be used throughout the grading process.

(2) **Passing Score.** A passing scaled score on the bar examination shall be a scaled score of not less than 70% of the highest possible scaled score as provided by the Bar Examination Grading Standards and Procedures.

(l) **Bar Examination Certification.** The Board shall certify all eligible Applicants to the Supreme Court for admission.

(m) **Request for Copies.** Applicants who failed the bar examination may review:

(1) Their bar examination grades and answers; and

(2) The essay questions and suggested analyses.

(n) **Bar Examination Records.** Bar examination papers shall be maintained by the Bar for at least 120 days after the bar examination, after which time the papers may be destroyed without further notice to the examinee.

**(Rule 217 amended 2-25-16 – effective as of the February 2017 bar exam.)*

RULE 218. Reexamination.

An Applicant who has failed the Idaho bar examination may apply for reexamination on a form provided by the Bar .

(a) **Character and Fitness.** The Board may require further investigation of the Applicant's character and fitness.

(b) **Disclosure of Information.** The requirements of Rule 204 apply to information required for reexamination.

(c) **Fee.** The reexamination fee is $200 for each of the first three reexaminations and $300 for each subsequent reexamination.

(d) **Number of reexaminations.** An Applicant who has failed six or more bar examinations, regardless of the jurisdiction, is ineligible to apply for the bar examination or reexamination in Idaho unless the Applicant has:
   (1) Demonstrated in writing, to the satisfaction of the Board, that there has been a substantial change in the degree of the Applicant's legal learning which makes it probable that the Applicant will pass the bar examination; and
   (2) Been notified, in writing, that special permission to retake the bar examination has been granted by the Board.

(e) **Other Provisions**. Provisions for reexamination relating to reasonable accommodation, filing deadlines and additional fees are as set forth in Rules 203 and 213.

RULE 219. Deferment.

(a) **Deferment.** An Applicant who is unable to take the bar examination after filing an Application may submit a written request for deferment to the next scheduled bar examination date, provided:
   (1) The deferment request must be received by the Executive Director no later than the first day of the currently scheduled bar examination and be accompanied by a $100 filing fee;
   (2) The Applicant must submit a supplemental application form before the late Application deadline under Rule 203 for the next scheduled bar examination. An Applicant whose supplemental application form is incomplete shall not take the next bar examination; and
   (3) No deferment shall be granted if the Applicant has appeared for a character and fitness examination.

(b) **Failure to Take Bar Examination.** An Applicant who receives a deferment but fails to take the next scheduled bar examination shall be required to file a new Application and pay the required fee.

(c) **Failure to Appear for Bar Examination.** A deferment shall not be permitted after the bar examination begins.

RULE 220. Procedure for Admission.

Following certification of eligibility for admission to the Supreme Court by the Board, the Clerk of the Supreme Court shall give written notice to the Applicant requiring the Applicant to appear in person before the Supreme Court within six months from the date of mailing of such notice to take the oath of admission.

(a) **Oath or Affirmation.** The oath or affirmation upon admission is as follows: I DO SOLEMNLY SWEAR THAT: (I do solemnly affirm that:) I will support the Constitution of the United States and the Constitution of the State of Idaho.

   I will abide by the rules of professional conduct adopted by the Idaho Supreme Court.

   I will respect courts and judicial officers in keeping with my role as an officer of the court.

   I will represent my clients with vigor and zeal, and will preserve inviolate their confidences and secrets.

   I will never seek to mislead a court or opposing party by false statement of fact or law, and will scrupulously honor promises and commitments made.

   I will attempt to resolve matters expeditiously and without unnecessary expense.

   I will contribute time and resources to public service, and will never reject, for any consideration personal to myself, the cause of the defenseless or oppressed.

   I will conduct myself personally and professionally in conformity with the high standards of my profession.

   SO HELP ME GOD. (I hereby affirm.)

(b) **Certificate of Admission.** An Applicant who has been certified to the Supreme Court as having the qualifications for admission to the practice of law in Idaho shall be issued a certificate of admission upon taking the required oath and paying the required fees.

(c) **Admission After Six Months**. An Applicant who fails to appear for admission within the six-month period must show to the satisfaction of the Supreme Court that the Applicant has been, and still is, a person of good character and fitness since issuance of the certificate of eligibility for admission.

RULE 221. Subpoena, Oaths, Discovery and Depositions.

(a) **Subpoena.**
   (1) At the request of the Applicant in any show cause hearing conducted under Rule 215, the hearing officer, Bar Counsel or any member of the Board may issue subpoenas consistent with I.R.Civ.P. 45.
   (2) In any show cause hearing or investigation under the Admission Rules, Bar Counsel may issue subpoenas consistent with I.R.Civ.P. 45.
   (3) The President of the Board shall enforce the attendance and testimony of any subpoenaed witness, production of subpoenaed documents or any nonobedience of a subpoena as set forth in I.R.Civ.P. 45(h), and may impose any penalties for contempt provided by law or available to a district court under I.R.Civ.P 45(h).
   (4) The President of the Board may quash or modify the subpoena or condition compliance with the subpoena as set forth in I.R.Civ.P. 45(d), which decision is not appealable until the proceeding is concluded.
   (5) The subpoena process, witness fees and mileage fees shall be the same as those provided for in civil proceedings in the district courts in Idaho.

(b) **Oaths.** Any member of the Board, the hearing officer or a court reporter may administer oaths or affirmations in a show cause hearing conducted under Rule 215. Bar Counsel or a court reporter may administer oaths or affirmations in any investigation under the Admission Rules or an examination under Rule 208.

(c) **Discovery.**
   (1) Except as provided in subsection (d) below, in any show cause hearing conducted under Rule 215, discovery shall be permitted and governed as provided for in the Idaho Rules of Civil Procedure and as set forth in this rule.
   (2) Any discovery disputes shall be determined by the President of the Board or hearing officer and such discovery disputes shall be addressed and resolved as provided for in the Idaho Rules of Civil Procedure. Discovery orders or other interlocutory orders are not appealable until the proceeding is concluded.

(d) **Depositions.** Depositions may not be taken in conjunction with any show cause hearing unless the witness qualifies as a witness whose deposition may be used at hearing under I.R.Civ.P. 32(a)(3). If a witness is deposed under those circumstances, the use of the deposition at the show cause hearing shall be governed by I.R.Civ.P. 32(a). Any dispute regarding a deposition shall be a discovery dispute and determined as set forth in subsection (c)(2) above.

RULE 222. Immunity.

(a) Testimony and other presentation, evidence, arguments or objections submitted to any member of the Board, hearing officer, special master, any member of the CF Committee, any member of the RA Committee, the Executive Director or Bar Counsel, during all proceedings and conduct maintained or engaged in under the Admission Rules, and all testimony and showings with respect to any such matters, shall be absolutely privileged and no civil litigation thereon may be instituted or maintained.

(b) Members of the Board, CF Committee, RA Committee, hearing officers, special masters, Executive Director, Admissions Director, Bar Counsel, and members of their respective staffs shall be immune, as available under any applicable law, from civil suit and damages for any conduct or occurrence in the course of or arising out of the performance of any duties in connection with the Admission Rules.

RULE 223. Confidentiality.

(a) Except as provided in this rule, all documents, records and hearings relating to Applications shall be confidential and not disclosed unless the Applicant waives such confidentiality in writing. This information shall not be available to anyone other than the Applicant through discovery under Rule 221.

(b) Notwithstanding subsection (a), the Bar may release the names and law schools of Applicants who took any Idaho bar examination and whether the Applicants passed or failed any Idaho bar examination.

(c) All participants, their counsel and witnesses in any proceeding under the Admission Rules shall maintain the confidentiality mandated by this rule.

RULE 224. Additional Rules of Procedure.

(a) **Records Retention.** All original Applications and records related to any Applicant who has been admitted to practice law in Idaho under the Admission Rules shall be retained permanently by the Bar.

(b) **Rules of Evidence.** Except as may otherwise be provided, the rules of evidence generally applicable in civil actions in the district courts of Idaho shall apply during proceedings under the Admission Rules.

(c) **Burden of Proof.** The Applicant bears the burden of proving entitlement to admission under the Admission Rules.

(d) **Standard of Proof.** Under the Admission Rules, any issue of fact shall be proved by a preponderance of the evidence.

(e) **Special Master**. Except as provided specifically in the Admission Rules, the Board or Supreme Court may refer any matter to a special master or hearing officer.

RULE 225. House Counsel License.

(a) **Requirement.** Any attorney employed as set forth below is required to be actively licensed or licensed as house counsel.

(b) **Qualifications.** A House Counsel Applicant must show to the satisfaction of the Board that the Applicant:

(1) Meets the qualifications for admission under Rule 202;

(2) Maintains an office for the practice of law limited to a house counsel practice within the state of Idaho on behalf of his or her employer;

(3) Is admitted to practice law before the highest court of a state or territory of the United States or the District of Columbia whose requirements for admission are commensurate with Idaho, including passing a qualifying bar examination for such admission;

(4) Is employed as house counsel by a company, association or other business entity whose business is not engaged in the selling or furnishing of legal advice or services to others;

(5) Is not currently suspended or disbarred in any state in which the Applicant is admitted; and

(6) Has submitted:

(A) Proof of employment with the company, association or other business entity; or

(B) Confirmation of an offer of future employment with the company, association or other business entity, provided that the house counsel license shall not be effective until such employment commences.

(c) **Time and Manner for Admission.** House Counsel Applicants shall be admitted as provided in Rule 220.

*(d) **Scope of Practice**. Except as provided in subsection (e), the professional activities of house counsel are limited to providing internal counseling and practicing law within the employment setting exclusively for a qualifying employer and its commonly owned organizational affiliates. House counsel shall not:

(1) Appear before a court or administrative tribunal as an attorney or counselor in the state of Idaho for anyone, including the employing business entity; or

(2) Claim, represent to be authorized to or offer legal services or advice to the public.

*(e) **Pro Bono Service.** A person licensed as house counsel may perform pro bono service in association with an Approved Legal Assistance Organization approved by the Idaho Supreme Court under Rule 228(c)(1).

*(f) **Cessation of Activity as House Counsel.** A house counsel shall not perform any services under this rule and shall not hold himself or herself out as house counsel:

(1) Upon termination of employment with the company, association or other business entity identified pursuant to subsection (b)(6) above; or

(2) Upon failure to meet annual licensing requirements as provided in I.B.C.R. 302(a).

*(g) **Notice of Termination.** A house counsel license shall be terminated upon notice of termination of employment with the company, association or other business entity.

*(*Sections (d)-(g) amended 3-6-15 – Effective 7-1-15)*

*RULE 226. Legal Intern License.

(a) **Admission to Limited Practice as Legal Intern**. Upon application and approval in accordance with this rule, qualified law students and recent law school graduates may be admitted as legal interns to engage in the limited practice of law described below.

(b) **Qualifications of Legal Intern.** To qualify for a legal intern license, the applicant must:

(1) Not have failed the Idaho bar examination or the bar examination in any other jurisdiction; and

(2) Have graduated from an Approved Law School within twelve months of applying for a legal intern license and show proof of graduation and the date thereof; or be a student duly enrolled and in good academic standing at an Approved Law School with completed legal studies totaling not less than two-thirds of a prescribed three-year course of study and the written approval of the applicant's law school dean or the dean's designee, provided that the written approval may be withdrawn at any time by written notice from the law school dean or designee to the Clerk of the Supreme Court and the Executive Director, and such approval shall be withdrawn if the applicant ceases to be duly enrolled prior to graduation or ceases to be in good academic standing.

(c) **Application.** The applicant shall submit an application to the Executive Director on a form provided by the Bar that includes:

(1) The applicant's certification, under oath, that he or she has read, is familiar with and shall abide by the Idaho Rules of Professional Conduct;

(2) Identification of any state or territory of the United States or the District of Columbia in which the applicant has been granted a legal intern license prior to applying for licensure in Idaho and, if such legal intern license has ever been revoked, the date and reasons for the revocation; and

(3) Proof of the date of graduation from an Approved Law School or written approval of the application by the applicant's law school dean or designee;

(4) The name, address, telephone number and signature of the supervising attorney; and
(5) A $25 application fee.

(d) **Procedure.**
(1) **Action by Executive Director.** The Executive Director shall approve or deny each application for a legal intern license as follows:
(A) The Executive Director may deny an application based upon the applicant's failure to meet the qualifications for licensure, failure to provide requested information, or for character and fitness issues. If the application is denied, the Executive Director shall send notice of the denial and the basis of the denial to the applicant.
(B) The Executive Director shall forward all approved applications to the Supreme Court for further consideration. Approval by the Executive Director does not constitute a finding of good moral character and fitness for purposes of meeting the qualifications to take any bar examination or for admission to practice law.
(2) **Action by Supreme Court.** Upon receipt of an application approved by the Executive Director, the Supreme Court may issue the legal intern license or deny the application. Supreme Court approval does not constitute a finding of good moral character and fitness for purposes of meeting the qualifications to take any bar examination or for admission to practice law.

(e) **Term of Legal Intern License.** Each legal intern license shall be granted for a definite period of time not to exceed 12 consecutive months, provided:
(1) If the applicant passes the Idaho bar examination and is admitted to the Bar prior to the expiration of the 12-month term, the legal intern license shall terminate upon admission to the Bar; or
(2) If the applicant fails the Idaho bar examination or the bar examination in any other jurisdiction prior to the expiration of the 12-month term, the legal intern license shall terminate on the date those bar examination results are released.

(f) **Scope of Legal Intern Practice.** A legal intern may:
(1) Advise or negotiate on behalf of a person referred to the legal intern by the supervising attorney with the client's informed consent, confirmed in writing;
(2) Prepare pleadings, motions, briefs or other documents;
(3) Participate in any civil and criminal proceedings if the supervising attorney is present;
(4) Participate in proceedings before a district court, without the presence of the supervising attorney, if the proceedings are based on a stipulation between the parties; and
(5) Participate in proceedings before a magistrate court, without the presence of the supervising attorney, if:
(A) The proceedings involve an infraction, misdemeanor, felony initial appearance, juvenile proceeding, or a civil proceeding; and
(B) The supervising attorney has submitted a certificate to each judge before whom the legal intern appears, certifying that the legal intern:
(i) Has participated in similar actions under the direct supervision and control of the supervising attorney;
(ii) Is fully prepared to present the matter; and
(iii) Has the informed consent of the client, confirmed in writing, to appear on behalf of that client.

(g) **Responsibility.** The supervising attorney and legal intern are responsible to the courts, the Bar, the Supreme Court and the client for all services provided by the legal intern pursuant to this rule.

(h) **Authority of the Court**. A judge may exclude a legal intern from active participation in a proceeding in the judge's sole discretion.

(i) **Termination of Legal Intern License**.
(1) Failure by the legal intern to perform any of the following duties shall be grounds for the immediate termination of the legal intern license:
(A) Abide by the Idaho Rules of Professional Conduct and all other laws and rules governing lawyers admitted to the Bar;
(B) Advise the client of the license status of the legal intern prior to performing any services for the client;
(C) Advise the judge of the license status of the legal intern prior to appearing before the judge; or
(D) Keep the supervising attorney and Bar advised of the legal intern's current residence at all times.
(2) The Supreme Court may terminate a legal intern license at any time on the Supreme Court's own motion, on motion of the supervising attorney or Bar Counsel, or on motion of the legal intern and surrender of the legal intern license.

(j) **Compensation.** A legal intern shall not receive payment directly from a client for services rendered, provided however, that the employer or supervising attorney may compensate the legal intern for his or her services and may charge for services rendered by the legal intern as may otherwise be proper.

(k) **Termination of Activity.** A legal intern shall not perform any services as a legal intern and shall not hold himself or herself out as a legal intern upon:
(1) Cessation of any of the conditions on which the legal intern license was issued;
(2) Termination of the legal intern license;
(3) Resignation of the legal intern's supervising attorney;
(4) Suspension or termination by the Board of the supervising attorney's status as a supervising attorney; or
(5) Withdrawal of the dean's approval under subsection (b)(2).

(l) **Qualifications of Supervising Attorney.** An attorney is qualified to act as a supervising attorney who:
(1) Is actively licensed in Idaho;
(2) Has practiced law for at least five years immediately prior to submission of the legal intern application; and
(3) Has never been publicly sanctioned in Idaho or any other state or territory of the United States or the District of Columbia, unless the Board approves the attorney to act as a supervising attorney.

(m) **Duties of Supervising Attorney**. A supervising attorney shall:
(1) Maintain direction and supervision over all work of the legal intern;
(2) Review and sign all pleadings, motions, briefs and other documents prepared by the legal intern, except when the judge has waived this requirement;
(3) Immediately notify the Supreme Court and Bar if the legal intern is no longer employed or engaged by the supervising attorney or if there has been a change of the legal intern's place of residence that impairs the ability of the supervising attorney to perform his or her duties;
(4) Be present in any proceedings required by this rule; and
(5) Advise the judge and client of the license status of the legal intern before any services are performed before the judge or on behalf of the client.

(n) **Supervision of Interns.**
(1) A supervising attorney shall not supervise more than two legal interns except in a clinical course offered by an Approved Law School, approved by its dean and directed by a member of its faculty. Any supervising attorney of the clinical course or program may supervise all legal interns in that course or program.

(2) With the approval of the supervising attorney, any attorney in the supervising attorney's firm, law office or practice may supervise and direct the work of the legal intern consistent with the duties set forth in subsection (m), provided that the supervising attorney shall continue to be responsible for all work of the legal intern as provided in subsection (g) above.

(o) **Substitution of Supervising Attorney.** A licensed legal intern may apply to substitute another attorney as his or her supervising attorney by application to the Executive Director and Supreme Court on a form prescribed by the Board. A substitution shall not be effective until approved by order of the Supreme Court.

(p) **Termination of Supervising Attorney.**

(1) An attorney may be terminated as the legal intern's supervising attorney at the discretion of the Board or Supreme Court.

(2) Upon termination of the supervising attorney, the legal intern shall cease performing any services and shall not hold himself or herself out as a legal intern until written notice of a substitute supervising attorney, signed by the legal intern and by a new supervising attorney, is approved by the Executive Director and Supreme Court.

*(*Rule 226 amended 3-17-14 – effective 5-2-14.)*

RULE 227. Pro Hac Vice Admission.

*(a) **Requirements.** Except as otherwise provided in the Admission Rules, only an actively licensed Idaho attorney may practice law. Upon order by the affected court and subject to the limitations below, an attorney who is not a member of the Bar or a resident of Idaho may be permitted to appear in an Idaho case if the attorney:

(1) Is an active member in good standing of the bar of another state or territory of the United States or the District of Columbia;

(2) Currently maintains an ongoing law practice in another jurisdiction;

(3) Files a motion for pro hac vice admission with the affected court as provided below; and

(4) Pays a $325 fee to the Bar, $125 of which shall be remitted by the Bar to the Idaho Law Foundation to support its pro bono legal services program.

**(Section (a) amended 3-4-13 – effective 4-1-13.)*

(b) **Local Counsel.**

(1) As used in this rule, Local Counsel means an active member of the Bar with whom the court and opposing counsel may readily communicate regarding the conduct of the case.

(2) Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the pro hac vice attorney on all matters before the court.

*(c) **Procedure.** To apply for pro hac vice admission, an attorney shall:

(1) File a motion with the affected court that:

(A) Designates Local Counsel and the address and telephone number of Local Counsel;

(B) Provides the written consent of Local Counsel; and

(C) Identifies the bar of which the Applicant is an active member in good standing and whether that bar limits the number of pro hac vice admissions;

(2) Submit to the Bar:

(A) Payment of a $325 fee;

(B) A certificate of good standing from the jurisdiction where the attorney currently maintains a law practice; and

(C) A copy of the motion;

(3) Provide proof that all counsel of record in the case have been served with the motion; and

(4) Submit a copy of the proposed order to the affected court.

**(Section (c) amended 3-4-13 – effective 4-1-13.)*

(d) **Consent.** An attorney who applies for pro hac vice admission consents to the exercise of disciplinary jurisdiction by the affected court and the Bar over any alleged misconduct which occurs during the case in which that attorney participates.

(e) **Order.** The affected court may enter an order granting or denying the motion for pro hac vice admission in a form as provided in subsection (k) below.

(f) **Pleading.** On all court filings in which the name of an attorney seeking or granted pro hac vice admission appears, the attorney shall state his or her current office address in the jurisdiction where the attorney is an active member.

(g) **Record.** The Bar shall maintain a record of all pro hac vice admission motions as a public record, and shall promptly provide such record to any judge upon request.

(h) **Limitation.**

(1) Except as provided in subsection (2) below, there is no limitation on the number of pro hac vice admissions that may be granted to an attorney.

(2) There shall be a reciprocal limitation on the number of pro hac vice admissions for attorneys applying for pro hac vice admission by virtue of an active license in a jurisdiction that limits the number of pro hac vice admissions of Idaho lawyers.

(i) **Agency Admission.** In agency proceedings in Idaho, the agency may, using the same standards and procedures as a court, admit an eligible out-of-state attorney who has been retained to appear as counsel in that proceeding pro hac vice.

(j) **Form of Motion.** The pro hac vice motion should be in substantially the following form:

Local Counsel
Office Address
Business Phone
Bar Number
Applying Counsel
Out of State Office Address
Business Phone
Number of Limited Admissions Granted By Jurisdiction

IN THE _____COURT OF THE STATE OF IDAHO

Case Caption) Case #_____
) Motion for Pro Hac Vice Admission

* * *

Pursuant to I.B.C.R. 227, the undersigned counsel petition the court for admission of [Applying Counsel], pro hac vice, in this case.

[Applying Counsel] certifies that he/she is an active member, in good standing, of the bar of _____, that he/she maintains the regular practice of law at the above-noted address, and that he/she is not a resident of the State of Idaho or licensed to practice in Idaho. [Applying Counsel] certifies that he/she has previously been admitted under I.B.C.R. 227 in the following matters:

_____

[If the pro hac vice applicant has been denied admission under this rule in this or any jurisdiction, a separate affidavit explaining the circumstances of such denial shall accompany this motion].

Undersigned counsel certify that a copy of this motion has been served on all other parties in this case and that a copy of the

motion, accompanied by a $325 fee and a certificate of good standing, have been submitted to the Idaho State Bar.

Counsel certify that the above information is true to the best of their knowledge. [Local Counsel] acknowledges that his/her attendance shall be required at all court proceedings in which [Applying Counsel] appears, unless specifically excused by the trial judge.

DATED this_____ day of _____, _____

/s/_____ /s/_____
Pro Hac Vice Counsel *Local Counsel*

(k) **Form of Order.** The order may be in substantially the following form:

IN THE _____COURT OF THE STATE OF IDAHO

	)	
	)	Case #_____
Case Caption	)	
	)	Order Granting Motion for Pro Hac
	)	Vice Admission
	)	

* * *

The court has considered the Motion for Pro Hac Vice filed on ___(date)_____ and being fully advised in the premises, it is hereby ordered that _____be admitted pro hac vice in this case and that _____ serve as Local Counsel, whose attendance shall be required in all court proceedings in which _____appears, unless specifically excused by the court.

DATED this_____ day of _____, _____

*RULE 228. Emeritus Attorney Limited License.

(a) **Admission to Limited Practice as Emeritus Attorney.** Upon application and approval in accordance with this rule, qualified attorneys may be admitted as Emeritus Attorneys to engage in the limited practice of law described below.

(b) **Qualifications.** An attorney who is or had been actively licensed to practice law in any state or territory of the United States or the District of Columbia within the preceding five (5) years of the application, may apply to practice law as an Emeritus Attorney consistent with this rule.

(c) **Pro Bono Service.** An Emeritus Attorney may perform the pro bono activities set forth in subsection (d) below only in association with an Approved Legal Assistance Organization approved by the Supreme Court under this rule.

(1) **Approved Legal Assistance Organization.** A nonprofit legal assistance organization seeking approval from the Supreme Court shall file a petition with the Clerk of the Supreme Court certifying that it is a nonprofit organization and reciting with specificity:

(A) The structure of the organization and whether it accepts funds from its clients;

(B) The major source of funds used by the organization;

(C) The criteria used to determine potential clients' eligibility for legal services offered by the organization;

(D) The types of legal and non-legal services offered by the organization;

(E) The names of all members of the Bar who are employed by the organization or who regularly perform legal work for the organization; and

(F) The existence and amount of malpractice insurance which will cover the Emeritus Attorney.

(d) **Scope of Practice.**

(1) An Emeritus Attorney may:

(A) Appear in any court or before an administrative tribunal, mediator or arbitrator in Idaho on behalf of a client of an Approved Legal Assistance Organization;

(B) Prepare pleadings and other documents to be filed in any court or before any administrative tribunal, mediator or arbitrator in any matter in which the Emeritus Attorney is involved; and

(C) Render legal advice and perform other appropriate legal services on behalf of a client of an Approved Legal Assistance Organization.

(e) **Limitations on the Scope of Practice.**

(1) Emeritus Attorneys are not, and shall not represent themselves to be, active members of the Bar licensed to practice law in Idaho.

(2) An Emeritus Attorney shall not request or receive compensation for legal services rendered, provided:

(A) An Approved Legal Assistance Organization may reimburse the Emeritus Attorney for actual expenses incurred while rendering services and may charge for its expenses as it may otherwise properly charge; and

(B) The Approved Legal Assistance Organization or client is entitled to receive all court awarded attorneys' fees for legal services rendered by the Emeritus Attorney.

(f) **Limited Licensure.** The Supreme Court may issue an Emeritus Attorney limited license upon receipt of:

(1) A sworn statement by the Emeritus Attorney that he or she:

(A) Is qualified under subsection (b) above;

(B) Shall not ask for or receive compensation for legal services;

(C) Shall abide by the Idaho Rules of Professional Conduct and all other laws and rules governing lawyers admitted to the Bar; and

(D) Submits to the jurisdiction of the Supreme Court and Bar for disciplinary purposes;

(2) Written confirmation from an Approved Legal Assistance Organization that:

(A) The Emeritus Attorney is currently associated with the organization; and

(B) The organization has been approved by the Supreme Court.; and

(3) Verification from the highest court or agency in the state, territory or district in which the Emeritus Attorney is licensed or was previously licensed to practice law, demonstrating that the attorney is qualified under subsection (b) above.

(g) **Termination of License.**

(1) An Emeritus Attorney license shall be terminated:

(A) Upon request by the Emeritus Attorney;

(B) By the Supreme Court at any time, provided that the Clerk of the Supreme Court shall mail a copy of the notice of termination to the respective attorney and Approved Legal Assistance Organization; or

(C) Upon the Supreme Court's withdrawal of its approval of the Approved Legal Assistance Organization the Emeritus Attorney is currently working with.

(2) To transfer to any other membership status, the Emeritus Attorney must comply with I.B.C.R. 306, if applicable.

(h) **CLE.** Emeritus Attorneys shall complete a minimum of three (3) credit hours of continuing legal education (CLE) from an Approved Legal Assistance Organization for each year the Emeritus Attorney limited license is renewed. Those CLEs shall be offered by the Approved Legal Assistance Organization free of charge to any Emeritus Attorney. Those CLEs will be included

on a form in the Emeritus Attorney's annual limited license renewal.

*(*Rule 228 amended 2-25-16 – effective 7-1-16)*

*RULE 229. Military Spouse Provisional Admission.

(a) Qualifications. In order to be admitted to practice law without taking the Idaho bar examination, a Provisional Admission 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;
  (3) Possesses the moral character and fitness required of all other Applicants for admission;
  (4) Has paid all required Application fees and costs;
  (5) Has not failed the Idaho bar examination in the five (5) years immediately preceding theApplication;
  (6) Is not limited in his or her right to practice in any state in which the Applicant is admitted;
  (7) Is identified by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) as dependant of a member of the United States Uniformed Services; and
  (8) Is residing in Idaho due to the servicemember's military orders to the State of Idaho.

(b) **Procedure.** To apply for Provisional Admission, an Applicant must file with the Board:
  (1) An application for Provisional Admission along with an application fee of $690;
  (2) A copy of the spouse's military orders to a military installation in Idaho which lists the Applicant as a dependent authorized to accompany the servicemember to Idaho;
  (3) A certificate of good standing from each jurisdiction in which the Applicant maintains a law license;
  (4) A Notice which:
    (A) Designates supervising Local Counsel and the address and telephone number of Local Counsel; and
    (B) Provides the written consent of Local Counsel.

(c) **Duration and Renewal**. A provisional license will be valid for one (1) year from the date of issuance, unless it is terminated by the occurrence of such situation as provided for below in Section (j).
  (1) A provisional license may be renewed at the end of each year, for a period of one (1) year, upon:
    (A) Filing a written request for renewal with the Board;
    (B) Submitting an affidavit by supervising Local Counsel that certifies:
      (i) The Applicant's continuing employment with Local Counsel; and
      (ii) Local Counsel's adherence to the supervision requirements as provided under this rule.
    (C) Payment of a $300 application fee.

(d) **Time and Manner for Admission.** Provisional Admission Applicants shall be admitted as provided in Rule 220.

(e) **Supervision.** A Provisional Attorney may engage in the practice of law in this jurisdiction under the supervision and direction of Local Counsel.
  (1) **Local Counsel.**
    (A) As used in this rule, Local Counsel means an active member of the Bar with whom the court and opposing counsel may readily communicate regarding the conduct of the case.
    (B) Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the Provisional Attorney on all matters before the court.
    (C) Local Counsel will be responsible to the court, the Bar, the Supreme Court and the client for all services of the Provisional Attorney provided pursuant to this rule.

(f) **Consent.** A Provisional Attorney consents to the exercise of disciplinary jurisdiction by the Idaho Supreme Court and the Bar over any alleged misconduct which occurs in which that attorney participates.

(g) **Pleading.** On all court filings in which the name of the Provisional Attorney appears, the Provisional Attorney shall state his or her attorney license number in the jurisdiction(s) where the attorney is an active member.

(h) **Record.** The Bar shall maintain a record of all Provisional Attorneys as a public record, and shall promptly provide such record to any judge upon request.

(i) **Termination.**
  (1) A Provisional Attorney shall immediately cease all activities under this rule upon:
    (A) The spouse's separation or retirement from the United States Uniformed Services; or
    (B) Failure to meet the annual licensing requirements of an Active Member of the State Bar of Idaho as provided in I.B.C.R. 302(a); or
    (C) The absence of supervision by Local Counsel; or
    (D) Permanent relocation outside the State of Idaho; or
    (E) The Provisional Attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders.
  (2) A provisional license shall be terminated upon:
    (A) Upon request by the Provisional Attorney;
    (B) The Provisional Attorney being admitted to the State Bar of Idaho under an admissions rule other than that of Provisional Admission;
    (C) The Provisional Attorney receiving a failing score on the Idaho Bar Exam;
    (D) The Provisional Attorney being denied admission to the practice of law in Idaho for violating ethical rules;
    (E) By the Supreme Court at any time, provided that the Clerk of the Supreme Court shall mail a copy of the notice of termination to the Provisional Attorney and supervising Local Counsel;
    (F) Upon notice to the State Bar of Idaho, required within thirty (30) days, of:
      (i) The spouse's separation or retirement from the United States Uniformed Services; or
      (ii) Permanent relocation to another jurisdiction; or
      (iii) The Provisional Attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders.
  (3) Upon termination of the provisional license, the Provisional Attorney shall immediately:
    (A) File in each matter pending before any court or tribunal a notice that the Provisional Attorney will no longer be involved in the case; and
    (B) Advise all clients receiving representation from the Provisional Attorney that the Provisional Attorney will no longer be representing them.

*(*Rule 229 added 3-5-12 – effective 7-1-12)*