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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 I
Jurisdiction and Effective Date

RULE 101. Jurisdiction. Pursuant to the authority granted in Section 3-408, *Idaho Code*, and subject to approval of the Idaho Supreme Court, the Board of Commissioners of the Idaho State Bar hereby promulgates the following requirements, qualifications and procedures for admission to the practice of law in the State of Idaho and maintenance of membership in the Idaho State Bar.

RULE 102. Effective Date. Subsequent to November 1, 1986, the effective date of these Rules, (and as subsequently amended) all admissions to the practice of law in Idaho and maintenance of membership in the Idaho State Bar shall be in accordance with the procedures set forth in these Rules.

SECTION II
Admissions

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 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) **Bar Examination.** The current version of the updated uniform bar examination developed by the NCBE released on or after July 2026.
(j) **Board.** The Board of Commissioners or the duly elected governing body of the Bar.
(k) **CF Committee.** The Character and Fitness Committee as provided in Rule 209.
(l) **Executive Director.** The chief administrative officer of the Bar.
(m) **Experienced Attorney Applicant.** An Applicant for admission to practice law under Rule 206.
(n) **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.
(o) **House Counsel Applicant.** An Applicant for admission to practice law under Rule 225.
(p) **NCBE.** The National Conference of Bar Examiners.
(q) **RA Committee.** The Reasonable Accommodations Committee as provided in Rule 213.
(r) **Request.** A request for reasonable accommodations for testing.
(s) **Student Applicant.** An Applicant for admission that has not been admitted to practice law in any jurisdiction.
(t) **Supreme Court.** The Supreme Court of the State of Idaho.
(u) **Uniform Bar Examination (UBE).** The bar examination developed by the NCBE consisting of the Multistate Essay Examination, the Multistate Performance Test, and the Multistate Bar Examination.

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;
  (5) Be a person of good moral character; and
  (6) Not have been denied admission within two years of the date of a Board Order that has become final under I.B.C.R. 215 denying the Application on character and fitness grounds or within two years of the date of a Supreme Court Order denying the Application on character and fitness grounds.

(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 Bar Examination score transfer Applicant, UBE score transfer Applicant, Experienced Attorney Applicant, or House Counsel Applicant may file an Application 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) Experienced Attorney Applicant: $1200
    (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.

(d) **Withdrawal.** An Application may be withdrawn at any time prior to the first day of the Bar Examination. Experienced Attorney, House Counsel, Bar Examination score transfer, 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. Admission Based on Practice Experience.

(a) **Qualifications.** In order to be admitted to practice law without taking the Idaho bar examination, an Experienced Attorney 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) Has been substantially engaged in the Active Practice of Law in one or more states or territories of the United States or the District of Columbia for no less than three of the five years immediately preceding the Application. For purposes of this rule, substantial engagement in the Active Practice of Law includes:
    (A) Attorneys who are licensed in Idaho as house counsel under Rule 225. Practice of law in Idaho as house

counsel without an Idaho house counsel license does not satisfy the requirements of this subsection;

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

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

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

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

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

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

(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.** Experienced 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.

(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. The Applicant shall be responsible for the court reporter's fee and transcription costs, unless the Applicant prevails at the show cause hearing or the Board determines to waive such fees and costs on good cause shown. The Applicant shall not be admitted to practice law unless the Bar is reimbursed for such fees and costs.

(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 forty-five 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 Section II of the Idaho Bar Commission Rules, all Applicants must take the Bar Examination.
(b) **Transfer of Bar Examination Score.** An Applicant may transfer a UBE or a bar examination score earned in another jurisdiction administering the UBE or an NCBE bar examination that is equal to or greater than the UBE or Bar Examination passing scores set forth in the Bar Examination Grading Standards and Procedures adopted by the Supreme Court, if the UBE or NCBE bar examination was taken within the last 37 months.
(c) **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.
(d) **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.
(e) **Validity.** A certificate permitting Bar Examination shall be valid only for the Bar Examination for which it is issued.
(f) **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.
(g) **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, any 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 Bar and proctors or monitors prior to and 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.
(h) **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 score on the Bar Examination shall be approved by the Board and the Supreme Court and set forth in the Bar Examination Grading Standards and Procedures adopted by the Supreme Court.
(i) **Bar Examination Certification.** The Board shall certify all eligible Applicants to the Supreme Court for admission.
(j) **Request for Copies.** Applicants who failed the Bar Examination may review:
(1) Their Bar Examination scores and answers; and
(2) Any model grading materials the NCBE authorizes for distribution to examinees.
(k) **Bar Examination Records.** Bar Examination documents shall be maintained by the Bar for at least 120 days after the Bar Examination, after which time the documents may be destroyed without further notice to the examinee.

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.

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 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 $625 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.

(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 $625 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.

(d) **Consent.** An attorney who applies for pro hac vice admission:
(1) 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; and
(2) Commits to adhere to the Idaho Standards for Civility in Professional Conduct.

(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 $625 fee and a certificate of good standing, have been submitted to the Idaho State Bar.

Counsel certify that he/she consents to the exercise of disciplinary jurisdiction by this court and the Bar over any alleged misconduct which occurs during this case and commits to adhere to the Idaho Standards of Civility in Professional Conduct.

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), which credits may be from an Approved Legal Assistance Organization for each year the Emeritus Attorney limited license is renewed. Those CLEs shall be offered by Approved Legal Assistance Organizations 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 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 the Application;

(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 dependent 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.

SECTION III
Licensing

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

(a) **Active or Active Member.** A member of the Bar who is licensed to practice law in Idaho, who is in compliance with the Active licensing requirements under Rule 302 and whose right to practice law is not currently limited under I.B.C.R. Section V by order of the Supreme Court.

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

(c) **Bar Counsel.** Legal counsel for the Board.

(d) **Board.** Board of Commissioners, the duly elected governing body of the Bar.
(e) **Canceled.** Status of an attorney whose license has been canceled by the Supreme Court based on noncompliance with licensing requirements.
(f) **Court or Supreme Court.** The Supreme Court of the State of Idaho.
(g) **Executive Director.** The chief administrative officer of the Bar.
(h) **Emeritus or Emeritus Member.** A member of the Bar who has been granted a limited license to practice law in Idaho under I.B.C.R. 228.
(i) **Good Standing.** The standing of a member of the Bar who is in compliance with the licensing requirements of Rule 302 and whose right to practice law is not currently limited under I.B.C.R. Section V by order of the Supreme Court.
(j) **House Counsel or House Counsel Member.** A member of the Bar who has been granted a limited license to practice law in Idaho under I.B.C.R. 225.
(k) **I.B.C.R.** Idaho Bar Commission Rules.
(l) **Inactive or Inactive Member.** A member of the Bar who is not licensed to practice law in Idaho and has met the Inactive licensing requirements under Rule 302, provided:
  (1) Attorneys who were "affiliate members" prior to the effective date of these Rules shall be Inactive Members; and
  (2) Attorneys who were "inactive members" prior to the effective date of these Rules shall be considered resigned unless they Transfer status under Rule 306 and pay an additional $150 Transfer fee by March 1, 2013, provided an extension may be granted at the discretion of the Executive Director.
(m) **I.R.P.C.** Idaho Rules of Professional Conduct.
(n) **Judicial or Judicial Member.** All magistrates, district court judges and appellate court judges of the State of Idaho and all judges of the U.S. District Court of Idaho.
(o) **MCLE.** Mandatory Continuing Legal Education.
(p) **Member.** For purposes of these Rules, an attorney who is currently an Active, Inactive, Emeritus, Judicial, Senior or House Counsel Member of the Bar.
(q) **Resigned.** Status of an attorney who voluntarily resigns his or her license or whose license is deemed resigned under Rule 305.
(r) **Retired Judicial.** A former Judicial Member who previously qualified for judicial membership under I.B.C.R. 301(n) and is not licensed to practice law in Idaho.
(s) **Rules.** Section III of the I.B.C.R.
(t) **Senior or Senior Member.** A member of the Bar aged sixty-five (65) years or older who is not licensed to practice law in Idaho and has been granted Senior status under Rule 302(d).
(u) **State.** State of Idaho.
(v) **Transfer.** Change in membership status.

RULE 302. Licensing Requirements.

Following admission as a member of the Bar, an attorney may maintain membership as follows:

(a) **Active or House Counsel Member.** An Active or House Counsel Member shall:
  (1) Pay the annual license fee required by Rule 304;
  (2) Comply with trust account requirements;
  (3) Comply with all applicable MCLE requirements under I.B.C.R. 402;
  (4) Verify the attorney's membership information under Rule 303, including an email address for electronic service from the courts; and
  (5) Certify to the Bar (A) whether the attorney represents private clients; and (B) if the attorney represents private clients, submit proof of current professional liability insurance coverage at the minimum limit of $100,000 per occurrence/$300,000 annual aggregate. Each attorney admitted to the active practice of law in this jurisdiction who is required to have professional liability insurance shall identify the primary carrier and shall notify the Bar in writing within thirty (30) days if the professional liability insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason, unless the policy is renewed or replaced without substantial interruption.
(b) **Inactive, Emeritus or Retired Judicial Member.**
  (1) An Inactive, Emeritus or Retired Judicial Member of the Bar may maintain membership by payment of the annual license fee required by Rule 304 and verification of the attorney's membership information under Rule 303.
(c) **Judicial Member.**
  (1) Except as provided in subsection (2) below, a Judicial Member is not required to meet licensing requirements.
  (2) Judicial Members who provide arbitration or mediation services for a fee must Transfer to Active status.
(d) **Senior Member.**
  (1) Any Active, Inactive or Judicial Member aged sixty-five (65) years or older who is not engaged in the practice of law may request Transfer to Senior status by submitting a written request to the Bar.
  (2) A Senior Member must meet the licensing requirements of an Inactive Member under subsection (b) above.

RULE 303. Membership Information.

(a) **Required Information.** All members of the Bar must provide the following membership information, which shall be considered public information:
  (1) Full name;
  (2) Name of employer or firm, if applicable;
  (3) Mailing address;
  (4) Phone number;
  (5) Email address for use by the Bar; and
  (6) In addition to the above information, an Active or House Counsel Member shall also provide:
    (A) An email address for electronic service of notices and orders from the courts in those counties and district courts where electronic filing has been approved by the Supreme Court. This email address may be the same as the email address identified in subsection (a)(5) above. If no separate email address for electronic service from the courts has been designated, the email address identified in subsection (a)(5) will be used for such service; and
    (B) Whether the attorney has professional liability insurance, if such insurance is required under Rule 302(a).
(b) **Changes to Membership Information.** Attorneys shall provide written notification to the Bar of any change in their name, mailing address, telephone number or business email address within thirty (30) days of such change, provided that written notification of a change in the attorney's email address for purposes of electronic service from the courts shall be provided to the Bar within seven (7) days.
(c) **Failure to Notify the Bar of Changes.** The license of any attorney who fails to comply with subsection (a) and (b) above may be canceled by the Supreme Court for failure to meet licensing requirements.
(d) **Notice.** All notices sent pursuant to these Rules shall be mailed to the mailing address of the attorney as filed with the Bar under subsection (a)(3) and shall be deemed notice upon the attorney.

RULE 304. Annual License Fees.

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

(a) **In the Calendar Year of Admission.**
  (1) Two hundred dollars ($200) if admitted prior to July 1 of the calendar year; or
  (2) One hundred and thirty dollars ($130) if admitted on or after July 1 of the calendar year.

(b) **Active and House Counsel Members.**
  (1) Three hundred and fifty dollars ($350) in the first, second and third full calendar years after admission.
  (2) Four hundred and eighty-five dollars ($485) in the fourth full calendar year after admission and each year thereafter.

(c) **Inactive and Emeritus Members.**
  (1) One hundred seventy dollars ($170) in each full calendar year after admission.
  (2) Eighty ($80) for each year following the calendar year of the lawyer's seventy-second birthday.

(d) **Retired Judicial Members**
  (1) No fee.

(e) **Senior Members.**
  (1) Eighty dollars ($80).

(f) **Members Aged Seventy-Two (72) Years or Older.**
  (1) Eighty dollars ($80) for the first full calendar year following an attorney's seventy-second (72nd) birthday and every year thereafter.

(g) **Late Fees.**
  (1) **Annual license fee.**
    (A) Active and House Counsel Members who fail to pay the annual license fee by February 1 shall pay an additional fee of one hundred dollars ($100).
    (B) Inactive, Emeritus and Senior Members who fail to pay the annual license fee by February 1 shall pay an additional fee of twenty-five dollars ($25).
  (2) **MCLE.**
    (A) An attorney who requires additional time beyond the end of the attorney's reporting period to obtain the necessary credits to meet MCLE requirements shall pay an additional fee of one hundred dollars ($100).

RULE 305. Failure to Comply with Licensing Requirements.

(a) **Compliance.** No license to practice law shall be issued to an attorney who fails to timely comply with the licensing requirements of Rule 302.

(b) **Notice.** The Executive Director shall give, or cause to be given, written notice to each attorney who fails to comply with the licensing requirements of Rule 302. Such notice shall advise that:
  (1) The attorney has until March 1 to complete the licensing requirements; and
  (2) If the attorney fails to complete the licensing requirements by March 1, the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho, provided however, hardship extensions not to exceed sixty (60) days may be granted at the discretion of the Executive Director for an attorney to complete MCLE requirements.

(c) **Cancelation.**
  (1) The Supreme Court may cancel the license of any attorney who fails to comply with licensing requirements under these Rules.
  (2) An attorney whose license has been canceled continues to be subject to discipline at the discretion of Bar Counsel.
  (3) A license that has been canceled and not reinstated as provided under subsection (d) shall be deemed resigned, provided however, hardship extensions may be granted at the discretion of the Executive Director.

(d) **Reinstatement.**
  (1) An attorney seeking reinstatement of a canceled license shall, within one (1) year of the Supreme Court order canceling the license:
    (A) Comply with licensing requirements under Rule 302;
    (B) Pay the applicable license fees due at the time the Supreme Court entered the cancelation order;
    (C) Complete the applicable MCLE credits due at the time the Supreme Court entered the cancelation order;
    (D) Provide a Certificate of Good Standing and discipline report from any other state or territory of the United States or the District of Columbia in which the attorney is licensed to practice law and a discipline report from Idaho;
    (E) Certify, under penalty of perjury, whether the attorney has been convicted of a felony or serious crime as defined in I.B.C.R. 501; and
    (F) Petition the Supreme Court for reinstatement.
  (2) Reinstatement of a canceled license shall be by Supreme Court order.

(e) **Resignation.**
  (1) An attorney who does not intend to meet licensing requirements may voluntarily resign his or her membership in the Bar by submitting a written request to the Executive Director on a form provided by the Bar. An attorney with pending disciplinary matters may not voluntarily resign without Bar Counsel approval.
  (2) An attorney whose license has been canceled for one (1) year or longer and who has not sought reinstatement of the license as provided under subsection (d) shall be deemed resigned unless a hardship extension has been granted pursuant to subsection (c)(3). The Executive Director shall provide thirty (30) days' written notice to the attorney prior to such resignation.
  (3) An attorney seeking admission to practice law in Idaho after his or her license has been resigned is required to apply for admission under I.B.C.R. Section II.

RULE 306. Transfer.

(a) **Transfer to Active status.**
  (1) Members seeking to Transfer to Active status shall:
    (A) Submit a written request to the Bar;
    (B) Comply with Active member licensing requirements under Rule 302;
    (C) Provide a Certificate of Good Standing and discipline report from any other state or territory of the United States or the District of Columbia in which the attorney is licensed to practice law and a discipline report from Idaho;
    (D) Certify, under penalty of perjury, whether the attorney has been convicted of a felony or a serious crime as defined in I.B.C.R. 501; and
    (E) Except as provided in subsection (a)(3):
      (i) An attorney who has not been Active in Idaho for the immediately preceding one (1) to three (3) years shall certify that the attorney has completed ten (10) Idaho-approved credits within sixty (60) days of Transfer to Active status;
      (ii) An attorney who has not been Active in Idaho for the immediately preceding three (3) years or longer shall certify that the attorney has completed thirty (30) Idaho-approved MCLE credits, including at least two (2) ethics credits, within the preceding

three (3) years or within ninety (90) days of Transfer to Active status;

(iii) An attorney who has not been Active in Idaho for the immediately preceding five (5) years or longer shall successfully complete a character and fitness examination in accordance with I.B.C.R. 208 through 210, certify that the attorney has completed MCLE credits as required under subsection (ii) above and:

(a) Provide proof that the attorney has been actively engaged in the practice of law in any state or territory of the United States or the District of Columbia for at least three (3) of the immediately preceding five (5) years; or

(b) Provide proof that the attorney is competent to practice law in Idaho, provided the following factors may be considered by the Board when determining competency:

(1) Practice of law in other jurisdictions;

(2) Number of years of practice prior to Transfer from Active status;

(3) Employment in law-related fields;

(4) Completion of continuing legal education courses; and

(5) Any other factors the Board deems appropriate.

(2) An attorney who has not been Active in Idaho, or actively engaged in the practice of law in a manner equivalent to an Active member in any other state or territory of the United States or the District of Columbia, for the immediately preceding seven (7) years or longer shall comply with all requirements under subsection (a)(1)(E)(iii) above and, as may be determined and required by the Board, pass all or a portion of the Idaho State Bar Examination.

(3) An attorney who has not been Active in Idaho, or actively engaged in the practice of law in a manner equivalent to an Active member in any other state or territory of the United States or the District of Columbia, for the immediately preceding ten (10) years or longer must apply for admission under I.B.C.R. Section II.

(4) Transfer from Judicial status to Active status requires compliance with only subsections (a)(1)(A) through (D) of this Rule.

(5) Transfer from Emeritus status to Active status is permissible only if the attorney was admitted to the Bar prior to being granted a limited license as an Emeritus Member.

(6) After receiving the information required by this Rule, the Board shall grant or deny an attorney's request for Transfer to Active status. The Board may withhold a Transfer to Active status until it receives a satisfactory showing on any matter raised under this Rule. If the Board denies an attorney's request for Transfer to Active status, the attorney may seek Supreme Court review of the Board's decision by filing a written petition for such review, stating the reasons for the request, within twenty-one (21) days of service of the Board's decision. Upon receipt of such request, the Supreme Court may, in its sole discretion, order briefing, allow oral argument or decide the matter upon the petition before it.

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

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

(A) Submit a written request to the Bar; and

(B) Comply with the licensing requirements under Rule 302.

(2) Members seeking to Transfer to Emeritus status shall:

(A) Submit a written request to the Bar;

(B) Comply with the licensing requirements under Rule 302; and

(C) Comply with I.B.C.R. 228.

(3) Transfer from Emeritus status to Inactive, Senior or Retired Judicial status is permissible only if the attorney was admitted to the Bar prior to being granted a limited license as an Emeritus Member.

(4) Transfer from Active to Inactive or Emeritus status during the final year of the attorney's MCLE reporting period does not eliminate the reporting requirement for that reporting period.

(c) **House Counsel**. A House Counsel member seeking admission as an Active, Inactive or Senior member is required to apply for admission under I.B.C.R. Section II.

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

(a) To the extent Bar license funds are expended to advocate political or ideological positions that are not reasonably related to the Bar's enumerated purposes, dues-paying members may, upon application, be refunded an appropriate amount of their license fee, equal to the proportionate amount expended for such advocacy.

(b) The amounts of license fees expended for advocacy activities described in subsection (a) shall be announced by publication in *The Advocate* or by electronic communication from the Bar to Bar Members.

(c) Refund applications shall be made within thirty (30) days of the date the Bar notifies Bar Members under subsection (b) and shall be directed to the Executive Director.

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

SECTION IV
Mandatory Continuing Legal Education

RULE 400. Statement of Purpose. It is important to the public and members of the Bar that attorneys who are engaged in the active practice of law in Idaho continue their legal education. Continuing legal education enables attorneys to acquire new knowledge and skill sets and understand current trends and legal issues. These rules establish the minimum requirements for that continuing legal education.

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

(a) **Accredited Activity**. A course, video, recording or other activity approved for CLE credit by the Board or its designee.
(b) **Active or Active Member.** A member of the Bar as defined in I.B.C.R. 301.
(c) **Affinity Group.** An Idaho-based legal group organized to promote the common interests of certain members of the Bar.
(d) **Attendance.** Being present in an audience, either in person or through an electronic medium, at a live Accredited Activity at the time the course is actually presented, or engaging in self-study using an accredited recorded program under Rule 404(a).
(e) **Bar.** Idaho State Bar.
(f) **Bar Counsel**. Legal counsel for the Board.
(g) **Board.** Board of Commissioners, the duly elected governing body of the Bar.
(h) **Canceled.** Status of an attorney as defined in I.B.C.R. 301.
(i) **Certificate of Compliance**. Form certifying an attorney's compliance with applicable CLE requirements.
(j) **CLE**. Continuing legal education.
(k) **Course Provider.** The entity or individual responsible for the planning and presentation of a CLE activity, applying for accreditation of the CLE activity and paying the respective accreditation application fee.
(l) **Court** or **Supreme Court**. Supreme Court of the State of Idaho.
(m) **Credit Hour**. Sixty (60) minutes of actual attendance at an Accredited Activity, rounded to the nearest quarter of an hour.
(n) **Executive Director**. The chief administrative officer of the Bar.
(o) **House Counsel or House Counsel Member.** A member of the Bar as defined in I.B.C.R. 301.
(p) **I.B.C.R.** Idaho Bar Commission Rules.
(q) **New Admittee Credit-Approved (NAC-Approved).** An Accredited Activity addressing Idaho practice, procedure, and/or ethics that has been designated by the Bar as NAC-Approved in accordance with standards adopted by the Board.
(r) **New Attorney Program.** The NAC-Approved Accredited Activity described in Rule 402(f).
(s) **Resigned.** Status of an attorney as defined in I.B.C.R. 301.
(t) **Rules.** Section IV of the I.B.C.R.
(u) **State**. State of Idaho.

RULE 402. Education Requirement - Report. Except as provided in Rule 408, all Active and House Counsel Members shall complete and report CLE credits as provided in this section.

(a) **Minimum Requirements.**
  (1) Active and House Counsel Members shall complete a minimum of thirty (30) credit hours of Accredited Activity in every three (3) year reporting period.
  (2) Beginning with the attorney's next full reporting period after the effective date of these Rules and thereafter, at least three (3) CLE credits shall be in courses on legal ethics or professional responsibility, as approved by the Board or its designee. Such courses may include discussion of the Idaho Rules of Professional Conduct, professionalism and civility, client trust account administration and legal malpractice prevention.
  (3) No more than fifteen (15) of the required thirty (30) credits may be self-study credits.
  (4) Attorneys holding themselves out as specialists or certified specialists, as provided in Section X of the I.B.C.R., shall comply with the requirements of the applicable certifying organization for completion of CLE credits in the specialty area.
  (5) Fulfillment of the credit requirements specified in subsections (1) through (4) above may be concurrent.
(b) **Reporting Period**.
  (1) **General**. Except as provided in subsection (2), the reporting period for Active and House Counsel Members shall be every three (3) calendar years.
  (2) **Exceptions.**
    (A) Upon an attorney's admission to the Bar as an Active or House Counsel Member, the reporting period shall begin on the date of admission and end on December 31 of the third full calendar year following admission.
    (B) The reporting period for an attorney who transfers to active status under I.B.C.R. 306 shall begin on the effective date of the transfer and end on December 31 of the third full calendar year following transfer, provided:
      (i) Any CLE credits obtained to satisfy transfer requirements shall not apply to the new reporting period; and
      (ii) The reporting period for an attorney who transfers to Active status after less than one (1) year on another status shall be the same reporting period that was applicable prior to the attorney's transfer from Active status.
    (C) The reporting period for an attorney whose license has been reinstated under I.B.C.R. 305 shall be the same reporting period that was applicable prior to the license cancelation, provided that any CLE credits obtained to satisfy requirements for reinstatement shall not apply to the reporting period.
(c) **Certificate of Compliance**. An attorney who is required to complete CLE credits under subsection (a) shall submit a written Certificate of Compliance, on a form prescribed by the Board, verifying the attorney's CLE compliance for the applicable reporting period.
  (1) **Content**. The Certificate of Compliance shall set forth the record of the attorney's compliance with these Rules during the reporting period and shall contain at least:
    (A) A list of the Accredited Activities attended;
    (B) The dates of attendance;
    (C) The Course Provider;
    (D) The hours attended, rounded to the nearest quarter of an hour; and
    (E) The attorney's signature, under penalty of perjury.
  (2) **Place of Submission**. The Certificate of Compliance shall be submitted to the Executive Director.
  (3) **Time of Submission**. The Certificate of Compliance shall be submitted on or before February 1 of the year immediately following the conclusion of the reporting period.
(d) **Verification of Compliance**. The Executive Director shall cause up to ten percent (10%) of the Certificates of Compliance

submitted pursuant to subsection (c) to be randomly reviewed to verify compliance.

(e) **Exemptions**. Exemptions from all or part of the CLE requirements of subsection (a) may be granted as follows:
  (1) **Eligibility**. An exemption may be granted:
    (A) Upon a finding by the Executive Director of special circumstances constituting an undue hardship for the attorney; or
    (B) Upon verification of the attorney's disability or severe or prolonged illness, in which case all or a specified portion of CLE credits may be earned through self-study.
    (C) For an attorney on full-time active military duty who does not engage in the practice of law in Idaho.
  (2) **Request for Exemption**. An attorney may request an exemption by submitting a written request to the Executive Director setting forth the grounds for the exemption.
  (3) **Time for Submission**. A request for an exemption must be submitted to the Executive Director at least sixty (60) days prior to the end of the attorney's three (3) year reporting period.

(f) **New Admittee Education Requirement.** Commencing on the date of admission to the Bar and within one (1) year thereafter, attorneys shall complete and report the following CLE credits:
  (1) **NAC-Approved CLE Credits.** Attorneys shall complete at least ten (10) NAC-Approved CLE credits, which shall be counted towards satisfying the thirty (30) credit requirement set forth in subsection (a)(1).
  (2) **Idaho Substantive Law Requirement.** Of the ten (10) NAC-Approved CLE credits required in subsection (f)(1), attorneys shall complete Accredited Activities addressing Idaho law on ethics, civil and criminal procedure, and community property. The Board shall approve and administer the Accredited Activities that satisfy the Idaho substantive law requirements of this Rule.
  (3) **New Attorney Program.** An attorney who has actively practiced law for less than three (3) years prior to admission to the Bar shall also complete the New Attorney Program, which shall consist of an introduction to practice, procedure and ethics. The New Attorney Program CLE credits shall count towards satisfying the NAC-Approved CLE credit requirement in subsection (f)(1).
  (4) **Extension**. An attorney may request an extension of time to complete these requirements by filing a written petition with the Executive Director within one (1) year of admission as an Active or House Counsel Member. The Executive Director may grant the extension upon a showing by the attorney that completion of these requirements would cause a substantial hardship.
  (5) **Noncompliance**. An attorney's failure to complete these requirements shall be grounds for a finding of noncompliance under Rule 406.

RULE 403. Accreditation.

(a) **Standards**. Accreditation of CLE activities shall be consistent with the following standards:
  (1) The activity shall have significant intellectual or practical content, and the primary objective shall be to increase the attorney's professional competence and ability to deliver quality legal services in an efficient, competent and ethical manner;
  (2) The activity shall constitute an organized program of learning that addresses matters directly related to the practice of law, professional responsibility or ethical obligations of attorneys, provided:
    (A) Courses included in the curriculum of a college or university undergraduate degree program do not qualify for accreditation as a CLE activity; and
    (B) An attorney may receive credit for attendance at a non-legal educational program if the subject of that program relates specifically to the attorney's area of practice. For example, credit may be given for attendance at a medical-related program if the attorney's practice includes medical malpractice;
  (3) The activity shall be conducted by an individual or group qualified by practical or academic experience in the covered subjects;
  (4) The activity may include video, digital content or other presentation formats;
  (5) Materials used in the activity shall be thorough and of high quality, and should be distributed to participants prior to or during the activity; and
  (6) The activity may address law practice management to promote the efficient and competent delivery of legal services; however, no CLE credit shall be approved for marketing, client cultivation, general time management or stress reduction, computer training that is not specific to attorneys, general business topics, or vendor-sponsored activities designed solely to promote products or services.

(b) **Accreditation**. A person or Course Provider may apply for accreditation of a CLE activity by filing with the Executive Director a written application on a form prescribed by the Board.
  (1) **Contents of Application**. The application shall contain:
    (A) The name of the Course Provider;
    (B) A description of the CLE activity;
    (C) Detailed descriptions of the subjects covered in the CLE activity;
    (D) The name and qualifications of each presenter;
    (E) The time schedule of a live CLE activity or the length, in minutes, of a recorded CLE activity;
    (F) The name of the person or Course Provider requesting accreditation;
    (G) The date and location of a live CLE activity or, if the CLE activity is recorded, the date and location that the attorney completes the CLE activity for self-study credit; and
    (H) For a recorded CLE activity used for self-study credit, the date the activity was produced or initially recorded.
  (2) **Time of Filing**.
    (A) The application may be filed prior to the CLE activity.
    (B) An application filed more than ninety (90) days after the CLE activity is completed shall be accompanied by a twenty-five dollar ($25) late fee.
  (3) **Attendance Roster**. Upon completion of an Accredited Activity, the Course Provider shall forward to the Bar an attendance roster providing the printed name and Bar number for each attorney participant and the total number of general credits and, if applicable, ethics credits, earned by each attorney participant.
  (4) **In-House and Self-Study Programs.** In-house or self-study programs that satisfy the requirements of subsection (a) may qualify for CLE credit upon written application.

RULE 404. Credit for CLE Activity.

Attorneys may earn CLE credits for Accredited Activities that meet the standards of Rule 403(a), as follows:

(a) **Credit for Attendance**.
  (1) **General.** One (1) credit hour will be given for each hour the attorney actually attends an Accredited Activity.
  (2) **Exceptions.** No credit will be given for:

(A) Time spent in introductory remarks, coffee and food breaks, business meetings, or other activities that do not involve educational aspects of the CLE activity; or

(B) Any course attended in preparation for, or prior to, admission to the practice of law, provided that credit will be given for NAC-Approved CLE credits as provided under Rule 402(f).

(3) **Self-Study Programs.**

(A) Credits for self-study programs are limited to no more than one-half of the total credits for each reporting period.

(B) Self-study programs include viewing or listening to legal educational programs that meet the standards set forth in Rule 403(a) and that were produced within the previous five (5) years.

(C) A CLE activity will be deemed a self-study program unless:

(i) Three (3) or more participants attend the CLE activity; and

(ii) The participants have access to the presenter during the CLE activity or, in the case of a video, audio or other recording, a moderator is present during the CLE activity who is qualified to answer attendees' questions about the CLE topic.

(b) **Credit for Teaching**.

(1) Except as otherwise provided below, an attorney who teaches an Accredited Activity shall receive three (3) credit hours for each hour of teaching.

(2) No credit will be given for:

(A) Preparation time;

(B) Time spent in introductory remarks, coffee and food breaks, business meetings, or other activities that do not involve educational aspects of the CLE activity;

(C) Presentations by attorneys that include the promotion of goods or services; or

(D) CLE activities for which the attorney is directly compensated other than as an honorarium or for expenses.

(3) An attorney who teaches an activity that meets the accreditation standards under Rule 403(a) that is directed primarily to nonlawyers shall receive only one (1) credit hour for each hour of teaching.

(4) For panel presentations, credit shall be calculated by multiplying the course hours by three (3) and dividing by the number of panel members.

(c) **Credit for Published Legal Writing.**

(1) Published legal writing authored by attorneys may qualify for CLE credit as set forth below.

(2) Credit may be given if the writing:

(A) Contributes to the attorney's legal education;

(B) Is intended for an attorney audience; and

(C) Is an original writing that is published, in print or electronically, in a professional legal journal or publication.

(3) No credit will be given for:

(A) A writing that is prepared in the ordinary course of the attorney's employment or practice of law;

(B) Written materials prepared as part of a CLE course;

(C) A writing for which the attorney is directly compensated, other than as an honorarium;

(D) A writing prepared for or on behalf of a client or prospective client or for marketing purposes; or

(E) Editing or rewriting.

(4) Credit for writing will be as follows:

(A) One (1) credit hour will be given for each one thousand (1,000) words, provided that any writing submitted for credit shall include a minimum of one thousand (1,000) words;

(B) Attorneys are limited to a maximum of six (6) total credits for writing for each reporting period;

(C) Credits will be applied in the year in which the writing is actually published; and

(D) A writing that is co-authored by one or more attorneys is eligible for credit in proportion to the percentage of work contributed by each attorney.

(5) An attorney requesting credit for a published writing under this subsection shall include with the request a copy of the writing, a word count, and the name and address of the publisher. If the attorney is a co-author, the request shall also include a statement indicating the percentage of work contributed by the attorney.

(d) **Carryover Credit**. No credit for attending or teaching a CLE activity shall apply to a reporting period other than the reporting period in which the credit is earned.

RULE 405. Processing Applications for Accreditation.

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

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

(1) Applications submitted by Affinity Groups shall be accompanied by a fifty dollar ($50) application fee; and

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

(b) **Credit Approval or Denial**. The Executive Director shall:

(1) Examine and evaluate all applications for accreditation following the standards established by Rule 403(a);

(2) Approve or deny all or any portion of a CLE activity for which accreditation is sought; and

(3) Determine the number of credit hours allowed for each CLE activity.

(c) **Decision**. The Executive Director shall provide written notice of the determination to approve or deny an accreditation application to the respective person or Course Provider.

(1) **Contents of Notice**.

(A) If the application is denied, the notice shall state the reason for the denial and advise the applicant of the right to seek review of the decision.

(B) If the application is approved, the notice shall state the number of credit hours allowed for the CLE activity.

(2) **Timing of Notice**. The notice shall be provided within twenty-one (21) days following receipt of the application.

(d) **Review**. Any person or Course Provider whose application for accreditation of a CLE activity has been denied may seek review of the Executive Director's decision by filing a written request with the Board, stating the reasons for the review request.

(1) **Time for Filing**. Any request for review of the Executive Director's decision shall be filed within fourteen (14) days of the notice.

(2) **Additional Information**. The applicant may present additional information to the Board for its consideration.

(3) **Decision of Board**. Following its review of the record, the Board shall issue a decision and advise the applicant of that decision. The decision of the Board is final.

RULE 406. Noncompliance.

(a) **Grounds**. The following are grounds for a finding of noncompliance under these Rules:

(1) Failure to complete the minimum CLE requirements under Rule 402(a);
(2) Failure to submit a Certificate of Compliance under Rule 402(c);
(3) Failure to complete the requirements of Rule 402(f); or
(4) Failure to complete the CLE requirement under I.B.C.R. 306(a)(1)(E) or any additional CLE credits required by the Board following Transfer to Active status.

(b) **Notice**. The Executive Director shall give, or cause to be given, written notice to each attorney who fails to comply with the CLE requirements of Rule 402 or I.B.C.R. 306. Such notice shall advise that:
(1) If the attorney has failed to complete the requirements of Rule 402(f), the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho;
(2) If the attorney has failed to complete the CLE requirement under Rule 402(a) or (c):
(A) The attorney must complete the CLE requirement by March 1 under I.B.C.R. 305; and
(B) If the attorney fails to complete the CLE requirement by the March 1 deadline, the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho; or
(3) If the attorney has failed to complete the CLE requirement under I.B.C.R. 306:
(A) The attorney must complete the CLE requirement within thirty (30) days; and
(B) If the attorney fails to complete the CLE requirement by the thirty (30) day deadline, the Supreme Court will be notified to cancel the attorney's license and remove the attorney's name from the list of attorneys entitled to practice law in Idaho.

(c) **Cure of Defect**. An attorney may cure noncompliance with CLE requirements under I.B.C.R. 306 or Rule 402(a) or (c) by:
(1) Completing the minimum CLE requirements by the deadline contained in the Executive Director's notice under subsection (b);
(2) Paying the MCLE late fee under I.B.C.R. 304(e)(2), if applicable; and
(3) Submitting a Certificate of Compliance to the Executive Director certifying compliance with the CLE requirements.

(d) **Cancelation for Noncompliance.** The license of an attorney who fails to comply with the CLE requirements may be canceled pursuant to I.B.C.R. 305.

(e) **False Report.** If the Executive Director has reason to believe that an attorney has filed a false Certificate of Compliance under these Rules, the attorney's name shall be forwarded to Bar Counsel for review of the attorney's conduct under the Idaho Rules of Professional Conduct.

RULE 407. Confidentiality. The files, records and proceedings of the Board relating to an attorney's failure to comply with these Rules are confidential and shall not be disclosed except in furtherance of the Board's duties, upon request by the affected attorney, or as the files, record and proceedings may be introduced in evidence or otherwise produced in proceedings taken in accordance with these Rules.

RULE 408. Idaho Attorneys Licensed in Other States. Except as otherwise provided in subsection (c) below, an attorney licensed in Idaho and also in another jurisdiction that requires attorneys to comply with mandatory CLE requirements may comply with the CLE requirements under these Rules as follows:

(a) **General.** An attorney whose principal office for the practice of law is not in Idaho may comply with the CLE reporting rules by filing a compliance report, on a form prescribed by the Board, certifying that:
(1) The attorney is subject to the mandatory CLE credit requirements in the jurisdiction where his or her principal office for the practice of law is located;
(2) The attorney complied with that jurisdiction's mandatory CLE requirements within the past three (3) years by submission and approval of the required credits; and
(3) The attorney is currently in compliance with the mandatory CLE credit requirements in that jurisdiction.

(b) **Certificate of Compliance.** An attorney submitting a compliance report under subsection (a) must provide a mandatory CLE certificate of compliance, or similar verification, from the other jurisdiction that includes the following information:
(1) Confirmation that the attorney is in compliance with the mandatory CLE requirements;
(2) The attorney's current mandatory CLE reporting period;
(3) The date that the attorney's previous mandatory CLE reporting period ended; and
(4) Confirmation that the attorney complied with the mandatory CLE requirements by submission of approved credits during the previous reporting period.

(c) **Exceptions.**
(1) Satisfaction of CLE requirements in Alaska or Hawaii does not satisfy Idaho mandatory CLE requirements.
(2) Attorneys licensed in other jurisdictions are not exempted from the requirement to complete the requirements of Rule 402(f).
(3) Attorneys claiming specialty certification shall comply with Rule 402(a)(3), provided that such attorneys may conform their reporting period to that of the jurisdiction in which their principal place of business is located.
(4) Attorneys who transferred to Active status under I.B.C.R. 306 shall comply with the CLE requirements applicable to the Transfer.

SECTION V
Rules For Review Of Professional Conduct

RULE 500. Jurisdiction - Effective Date

(a) **Power of Supreme Court.** The Supreme Court has the inherent power and the exclusive responsibility within the State to maintain appropriate standards of Professional Conduct and to structure and administer a system to review the Professional Conduct of each Lawyer in the State.

(b) **Powers of Lower Courts**. These Rules shall not be construed to deny to any court the powers necessary to maintain control over its proceedings.

(c) **Effective Date**. These Rules shall become effective on July 1, 2008. Any proceeding then pending in which a Hearing Committee has been appointed shall be concluded pursuant to the Rules existing immediately prior to the effective date of these Rules.

RULE 501. Definitions.

The following capitalized terms, as used in these Rules, shall have the meanings set forth below:

(a) **Bar.** "Bar" means the Idaho State Bar.

(b) **Bar Counsel**. "Bar Counsel" means any disciplinary counsel of the Idaho State Bar.

(c) **Board of Commissioners**. "Board of Commissioners" means the duly elected governing body of the Idaho State Bar.

(d) **Clerk**. "Clerk" means the Clerk of the Professional Conduct Board of the Idaho State Bar.

(e) **Conviction**. "Conviction" means a plea of nolo contendre, a plea of guilty, a jury verdict of guilty or a court decision of guilt, whether a formal judgment of conviction has been entered, regardless whether sentence has been imposed, withheld or suspended.

(f) **District Court**. "District Court" means a court of general jurisdiction in the State of Idaho.

(g) **Formal Charges**. "Formal Charges" means any disciplinary action seeking the Sanction of disbarment, suspension, public censure or public reprimand.

(h) **Grievant**. "Grievant" means anyone who files in the office of Bar Counsel a written statement alleging that a Lawyer has engaged in misconduct.

(i) **Hearing Committee**. "Hearing Committee" means a three person committee of the Professional Conduct Board, as provided in Rule 503.

(j) **Lawyer**. "Lawyer" means a person who meets the qualifications for and is duly admitted to the practice of law in the State of Idaho. When "lawyer" appears in lowercase in these Rules, it shall mean a person who is no longer duly admitted to practice law in the State of Idaho.

(k) **Professional Conduct**. "Professional Conduct" means conduct that occurs within or without the attorney-client relationship that reflects upon the Lawyer's fitness to practice law.

(l) **Professional Conduct Board**. "Professional Conduct Board" means the Professional Conduct Board of the Bar, as provided in Rule 502.

(m) **Respondent**. "Respondent" means a Lawyer whose Professional Conduct is under review or whose competency or disability status is under review.

(n) **Rules**. "Rules" means Section V of the Idaho Bar Commission Rules, Rules for Review of Professional Conduct.

(o) **Sanction.** "Sanction" means any of the disciplinary sanctions provided in Rule 506. "Sanction" also includes any other restriction upon a Lawyer's right to practice law authorized or approved by any duly authorized Professional Conduct enforcement authority in this or any other jurisdiction.

(p) **Serious Crime**. "Serious Crime" means:

(1) any felony; or

(2) any lesser crime that reflects adversely on the Lawyer's honesty, trustworthiness or fitness as a Lawyer. Such lesser crimes include, but are not limited to, any crime that involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a Serious Crime.

(q) **State**. "State" means the State of Idaho.

(r) **Supreme Court**. "Supreme Court" means the Supreme Court of the State of Idaho.

RULE 502. Professional Conduct Board

(a) **Membership of Board**. The Board of Commissioners shall appoint, with the approval of the Supreme Court, members to a board to be known as "The Professional Conduct Board of the Idaho State Bar." The Professional Conduct Board shall consist of no less than thirty members. Regardless of its size, approximately two-thirds of the Professional Conduct Board shall be comprised of members of the Bar in good standing and the remaining members shall be non-lawyer citizens of the State. All appointments shall be for three-year terms, which are staggered, and which may be renewed. The Board of Commissioners, with the approval of the Supreme Court, shall fill any vacancies for the remainder of an unexpired term.

(b) **Officers**. The Board of Commissioners shall designate one Lawyer member as Chair and another Lawyer member as Vice-Chair. The Chair (and when designated by the Chair, the Vice-Chair) shall supervise the general functioning of proceedings described by these Rules, may call meetings of the Professional Conduct Board, as necessary, and perform such other duties as may be authorized by the Board of Commissioners or the Supreme Court.

(c) **Powers and Duties of Professional Conduct Board**. The Professional Conduct Board acting by itself, or through delegation to its Chair, Vice-Chair, or the Clerk, shall exercise the following powers and duties:

(1) Rule on procedural motions prior to the assignment of a matter to a Hearing Committee;

(2) Appoint Hearing Committees and appoint chairs from among the Lawyer members of the Hearing Committees;

(3) Appoint replacements for members of Hearing Committees who may be unable to serve due to conflict, disqualification, incapacity, or other inability to serve;

(4) Assign Professional Conduct matters to Hearing Committees;

(5) Appoint, with the specific approval of the Supreme Court, a Hearing Committee in cases in which misconduct is alleged against Bar Counsel;

(6) Have its Hearing Committees make findings of fact, conclusions of law and recommendations with regard to the cases assigned to such Hearing Committees;

(7) Have its Hearing Committees recommend, impose, and administer Sanctions; and

(8) Maintain records of matters brought before the Professional Conduct Board, as may be required by these Rules.

(d) **Compensation and Expenses.** Members of the Professional Conduct Board shall receive no compensation for their services but shall be reimbursed for their travel and other reasonable expenses incidental to the performance of their duties.

RULE 503. Hearing Committees

(a) **Establishment and Membership of Hearing Committees.** Each Hearing Committee shall consist of three members of the Professional Conduct Board, two of whom shall be members of the Bar in good standing, and one of whom shall be a non-lawyer. With regard to any assigned matter, no Lawyer member of the Hearing Committee shall reside or have his or her principal place of business within the same judicial district in which the Respondent has his or her principal place of business. Further, no Hearing Committee member shall be assigned to a Professional Conduct matter or petition for reinstatement if that member has been assigned previously to a Professional Conduct matter involving the Respondent.

(b) **Powers and Duties**. Hearing Committees shall exercise the following powers and duties:

(1) Conduct disciplinary proceedings assigned by the Professional Conduct Board in accordance with these Rules;

(2) Rule upon motions and other matters assigned by the Professional Conduct Board and/or delegate such rulings to the Hearing Committee chair;

(3) Request the further investigation of any matter assigned by the Professional Conduct Board;

(4) Make findings of fact, conclusions of law and recommendations with regard to the cases assigned by the Professional Conduct Board;
(5) Recommend, impose and/or administer Sanctions, as provided in these Rules;
(6) Recommend interim suspension, as provided in Rule 510(c); and
(7) Undertake other related tasks assigned by the Professional Conduct Board or the Supreme Court.

(c) **Quorum**. Three members shall constitute a quorum for the purpose of hearing evidence and issuing findings and conclusions. All decisions of a Hearing Committee shall be by majority vote of the three Hearing Committee members. Participation by telephone or other electronic means shall constitute presence in person.

(d) **Compensation and Expenses**. Members of Hearing Committees shall receive no compensation for their services but shall be reimbursed for their travel and other reasonable expenses incidental to the performance of their duties.

(e) **Conflict of Interest**. Hearing Committee members shall not take part in any proceedings in which a judge, similarly situated, would be required to recuse himself or herself.

RULE 504. Bar Counsel

(a) **Appointment and Qualifications**. Bar Counsel shall be appointed by the Board of Commissioners and shall be a member in good standing of the Bar.

(b) **Powers and Duties**. With respect to the review of a Lawyer's Professional Conduct, Bar Counsel shall have the following powers and duties:
(1) To evaluate, investigate and dispose of grievances, as provided in Rule 509;
(2) To prosecute all Professional Conduct review proceedings before the Professional Conduct Board and the Supreme Court;
(3) To maintain records of Professional Conduct matters, as may be required by these Rules, keep the members of the Professional Conduct Board apprised of the status of disciplinary matters and compile statistics to aid in the administration of the system;
(4) To appoint such staff, and to incur such expenses as may be necessary to the performance of his or her duties, subject to any constraints that may be imposed by the Board of Commissioners; and
(5) To perform all other duties and functions as may be required by these Rules, the Idaho Bar Commission Rules, the Board of Commissioners or the Supreme Court.

RULE 505. Grounds for Sanctions.

The following shall constitute misconduct and shall be grounds for imposition of Sanctions:

(a) **General**. Acts or omissions by a Lawyer, individually or in concert with any other person or persons, which violate the Idaho Rules of Professional Conduct, as amended, or any other ethical canon or requirement adopted by the Supreme Court, whether the acts or omissions occurred in the course of an attorney-client relationship.

(b) **Conviction of a Serious Crime**. Conviction of a Serious Crime, and/or the failure to report a Conviction as provided in Rule 512(a).

(c) **Sanctions Imposed in Another Jurisdiction**. Any act or omission that results in a Sanction, as defined in Rule 501(o), which is authorized or approved by any duly authorized Professional Conduct enforcement authority in another jurisdiction.

(d) **Violation of Rules and Orders**. Violation of any rule or order imposed as a result of review of a Lawyer's Professional Conduct, including a Lawyer's failure to pay restitution, costs or expenses imposed under Rule 506.

(e) **Failure to Cooperate with or Respond to Disciplinary Authorities**. Failure, without justifiable grounds, to cooperate with or respond to a request from the Supreme Court, the Professional Conduct Board, a Hearing Committee or Bar Counsel.

RULE 506. Sanctions.

Disciplinary Sanctions may consist of any one or more of the following:

(a) **Disbarment**. Disbarment is the revocation of a lawyer's license or authority to practice law in this State or in any other jurisdiction. Only the Supreme Court may order disbarment in this State. A lawyer disbarred in this State who desires to again be admitted shall comply with all Bar admission requirements found in Section II of the Idaho Bar Commission Rules. A disbarred lawyer making such application shall have the burden of overcoming the rebuttable presumption of "unfitness to practice law." In no event shall a disbarred lawyer make application for admission to the Bar sooner than five years from the effective date of disbarment

(b) **Resignation in Lieu of Disciplinary Proceedings**. Any resignation in lieu of disciplinary proceedings in this or any other jurisdiction shall have the same effect as disbarment. A resignation in lieu of disciplinary proceedings cannot be issued by a Hearing Committee; rather, it is a negotiated Sanction between the Respondent and Bar Counsel. The Supreme Court must approve any resignation in lieu of disciplinary proceedings in this State. A lawyer who resigns in lieu of disciplinary proceedings and desires to again be admitted shall comply with all Bar admission requirements found in Section II of the Idaho Bar Commission Rules. A lawyer making such application shall have the burden of overcoming the rebuttable presumption of "unfitness to practice law." In no event shall a lawyer who resigns in lieu of disciplinary proceedings make application for admission to the Bar sooner than five years from the effective date of his or her resignation.

(c) **Suspension.** Suspension is the denial of the right to practice law for a specific period of time not to exceed five years. Only the Supreme Court may order a suspension in this State. A Lawyer who has been suspended and desires to again be admitted shall comply with the reinstatement procedures provided in Rule 518. Rule 510 shall govern interim suspensions.

(d) **Public Censure**. Public censure is an official, written reprimand regarding a Lawyer's Professional Conduct, which shall be published in the Idaho Reports. A public censure declares the Lawyer's conduct to have been improper but does not limit his or her right to practice law. In this State, only the Supreme Court can issue a public censure. In addition to the Idaho Reports, all public censures shall be published in the official Bar publication, on the official website of the Bar, and in a newspaper of general circulation in the judicial district where the Lawyer maintains his or her principal place of business.

(e) **Public Reprimand**. Public reprimand is a public, written reprimand regarding a Lawyer's Professional Conduct. A public reprimand declares the Lawyer's conduct to have been improper but does not limit his or her right to practice law. In this State, only the Professional Conduct Board may issue a public reprimand. All public reprimands shall be published in the official Bar publication and on the official website of the Bar.

(f) **Probation**. Probation is the continued right to practice law subject to such conditions as may be imposed by a court or by a duly authorized Professional Conduct enforcement authority. In this State, only the Supreme Court may impose conditions of probation that limit the Lawyer's license to practice law. Conditions of probation that do not otherwise limit the Lawyer's license to practice law can also be imposed by the Supreme Court, the

Professional Conduct Board or Bar Counsel. Probation must be imposed for a specific period; provided, however, probation may be renewed for an additional period by consent or after a hearing to determine if there is a continued need. Probation may be imposed independently or in conjunction with any other Sanction.

(g) **Private Reprimand**. Private reprimand is a private, written reprimand that declares a Lawyer's conduct to have been improper but does not limit his or her right to practice law. In this State, only Bar Counsel may impose a private reprimand. A private reprimand becomes a part of the permanent files of the Bar, but is not published.

(h) **Informal Admonition**. Informal admonition is private, written discipline that declares a Lawyer's conduct to have been improper but does not limit his or her right to practice law. In this State, only Bar Counsel may informally admonish a Lawyer. An informal admonition becomes a part of the permanent files of the Bar, but is not published. An informal admonition is lesser in scope than a private reprimand and is the least severe form of discipline available.

(i) **Restitution**. Restitution is the payment to persons financially injured and/or reimbursement to the Client Assistance Fund for claims paid from the fund for losses or claims resulting from a Lawyer's misconduct. Restitution may be imposed as a condition of any probation or in conjunction with any Sanction. Failure to pay imposed restitution establishes independent grounds for further discipline or Sanctions and/or may prevent reinstatement.

(j) **Imposition of Costs**. Assessment of the expenses and costs of Professional Conduct investigations and proceedings may be imposed in conjunction with any other Sanction. Failure to pay imposed costs establishes independent grounds for further discipline or Sanctions and/or may prevent reinstatement.

RULE 507. Withheld Sanctions

(a) **Sanctions that may be Withheld**. The Sanctions imposed under Rule 506(c)-(f) may be withheld in whole or in part, contingent upon the Respondent's observance of conditions imposed by the disciplinary authority invoking such Sanction. Such conditions may include the publication of the withheld Sanction.

(b) **Motion for Order to Show Cause**. Upon violation of the conditions of a withheld Sanction, Bar Counsel may file with the Professional Conduct Board a Motion for Order to Show Cause why the withheld Sanction should be imposed.
   (1) The motion shall allege that the Respondent has not abided by the conditions set forth in the order disciplining the Respondent/
   (2) The motion shall be served upon:
      (A) the Respondent at his or her last known address, and
      (B) the Respondent's counsel of record, if any.
   (3) The Chair of the Professional Conduct Board shall appoint a Hearing Committee, which shall schedule a hearing to ascertain the truth of the allegations set forth in the motion.
   (4) The Bar shall have the burden of proof that the Respondent has failed to adhere to the conditions set forth in the disciplinary order.
   (5) Following the hearing, the Hearing Committee shall make findings and, if the Bar has carried its burden of proof, recommend or order that the withheld Sanction be imposed.

(c) **Imposition of a Previously Withheld Sanction**. If the Bar carries its burden of proof on the Motion for Order to Show Cause, the previously withheld Sanction may be imposed:
   (1) by order of the Hearing Committee, if the withheld Sanction was imposed originally by a Hearing Committee or by Bar Counsel; or
   (2) by order of the Supreme Court, if the withheld Sanction was imposed originally by the Supreme Court.

RULE 508. Petitions Against Members of the Board of Commissioners, Professional Conduct Board or Bar Counsel

(a) **Board of Commissioners - Professional Conduct Board**. Grievances against a member of the Board of Commissioners or a Lawyer member of the Professional Conduct Board alleging grounds for the imposition of Sanctions, or against any non-lawyer member of the Professional Conduct Board alleging misconduct in the performance of his or her duties, shall be submitted directly to the Supreme Court. Upon receipt of a grievance under this Rule, the Supreme Court may:
   (1) Consider the matter on the basis of the grievance;
   (2) Appoint an investigator or independent counsel to investigate the matter and make a report to the Supreme Court;
   (3) Issue an order from among the options listed in Rule 509(c)(1-4);
   (4) Cause Formal Charges to be filed;
   (5) Cause a petition for interim suspension to be filed; and/or
   (6) Take such other steps as are necessary to facilitate the prompt resolution of the grievance.

(b) **Bar Counsel**. Grievances against Bar Counsel alleging grounds for the imposition of Sanctions shall be submitted directly to the Professional Conduct Board, which, with the approval of the Supreme Court, shall appoint a Hearing Committee to consider the grievance. Upon receipt of a grievance against Bar Counsel under this section, a Hearing Committee may:
   (1) Consider the matter on the basis of the grievance;
   (2) Require Bar Counsel to make a response;
   (3) Appoint an investigator;
   (4) Issue an order from among the options listed in Rule 509(c)(1-6); and/or
   (5) Take such other steps as are necessary to facilitate the prompt resolution of the grievance.

RULE 509. General Procedure for Disciplinary Proceedings

(a) **Evaluation**. Bar Counsel shall evaluate all information and grievances coming to his or her attention to determine the nature of the issue. Bar Counsel may refer the information or grievance to another entity if its subject matter falls outside the jurisdiction of these Rules or the Rules of Professional Conduct. If the information or grievance alleges facts that, if true, would constitute a violation of these Rules or the Rules of Professional Conduct, Bar Counsel shall conduct an investigation.

(b) **Investigation**. All investigations shall be conducted by or under the authority and direction of Bar Counsel. Upon the conclusion of an investigation, Bar Counsel may:
   (1) Disregard or dismiss the matter as unfounded, frivolous or beyond the purview of these Rules or the Rules of Professional Conduct and discontinue the investigation and proceedings concerning the matter; or
   (2) Take any of the disciplinary actions provided by Rule 509(c).

(c) **Disposition by Bar Counsel**. If, after due investigation, Bar Counsel determines that a violation of these Rules or the Rules of Professional Conduct has occurred, Bar Counsel may:
   (1) Issue an informal admonition or private reprimand to the Respondent;
   (2) Impose probation as provided by Rule 506(f) either as an independent Sanction or in conjunction with actions taken under subsection (c)(1) above;
   (3) Impose restitution and/or costs as provided by Rules 506(i) and (j), either as an independent Sanction or in conjunction with actions taken under subsections (c)(1) or (c)(2) above;

(4) Seek, in appropriate circumstances, transfer to disability inactive status under Rule 515;
(5) File Formal Charges, with concurrence of the Board of Commissioners; and/or
(6) Petition for interim suspension, as provided in Rule 510.

Bar Counsel shall not recommend a disposition other than dismissal without first providing the Respondent with written notice of the substance of the matter and affording him or her the opportunity to respond to the allegations. Bar Counsel shall also provide written notice to the Grievant regarding the disposition of the matter stating the reasons for the action taken.

(d) **Request for Review**. Either the Grievant or Respondent may request review by a Hearing Committee of Bar Counsel's disposition under subsections (b)(1), (c)(1), (2), or (3) in the following manner:

(1) **Mode and Content of Request**. A written request for such review, stating the reasons for the request, shall be sent to the Clerk of the Professional Conduct Board within 14 days following the receipt of notice by the Respondent or Grievant under subsection (c) of this Rule.

(2) **Service of Request**. The Clerk shall send a copy of the request for review to the Respondent or Grievant.

(3) **Assignment to Hearing Committee**. The Chair of the Professional Conduct Board shall appoint from among its approved membership a Hearing Committee to review the matter. Within 14 days of the assignment to a Hearing Committee, the Clerk shall notify the Grievant, Respondent and Bar Counsel of the assignment. The Clerk shall forward a copy of the request for review, together with the file concerning the matter, to the Hearing Committee, the Grievant and the Respondent.

(4) **Review by Hearing Committee**. The Hearing Committee shall review the matter upon the record before it, unless either party requests a hearing. If the party seeking review of the decision desires such a hearing, he or she shall so state in the request for review. If the other party desires a hearing, he or she shall make a request, in writing, to the Clerk of the Professional Conduct Board within seven days of being served with the request for review. All hearings shall be by telephone, unless the Hearing Committee prescribes another method. The Hearing Committee shall review the existing record prior to holding a hearing, if one is requested. If a hearing is held, the parties shall be permitted to file briefs and make oral argument related to the grievance under review, and the Hearing Committee may ask questions regarding the record before it. The Hearing Committee chair may limit the presentation at the hearing, in his or her sole discretion. All written materials related to the hearing shall be sent to the Clerk, who shall disseminate them to all parties and to the Hearing Committee.

(5) **Decision**. The Hearing Committee, following its review, may:

(A) remand the matter, or any new matter arising from the hearing, to Bar Counsel for further investigation;
(B) approve Bar Counsel's disposition;
(C) reject Bar Counsel's disposition and dismiss the matter;
(D) recommend a modification and remand the matter to Bar Counsel for disposition; or
(E) recommend the filing of Formal Charges.

(6) **Time for Rendering Decision**. The Hearing Committee shall render its decision within 21 days following the date upon which the record is submitted to the Hearing Committee or the date of the telephonic hearing (if any), whichever is later.

(7) **Service of Decision**. The Hearing Committee chair shall enter an appropriate order reflecting the decision of the Hearing Committee and file the same with the Clerk, who shall then serve the order upon Grievant, Respondent and Bar Counsel.

(8) **Effect of Hearing Committee Decision**. If the Hearing Committee's decision results in no Sanction being imposed on the Respondent, its review of Bar Counsel's disposition shall be final. If the filing of Formal Charges is recommended by the Hearing Committee, subsequent proceedings shall be processed as provided in Rule 511.

(9) **Supreme Court Review**. If the Hearing Committee's decision results in a Sanction being imposed on the Respondent, either the Grievant or Respondent may seek Supreme Court review of the Hearing Committee's decision. A written petition for such review, stating the reasons for the request, shall be filed with the Supreme Court, within 21 days of service of the Hearing Committee's decision. The petition shall contain a simple statement of the reasons the Grievant or Respondent believes that the Hearing Committee decision is clearly erroneous or arbitrary and capricious. Upon receipt of a petition under this subsection, the Supreme Court may, in its sole discretion, order briefing, allow oral argument or decide the matter upon the petition before it.

RULE 510. Interim Suspension

(a) **Grounds**. The Supreme Court may enter an order of interim suspension if:

(1) a Lawyer is convicted of a Serious Crime;
(2) a Lawyer's Professional Conduct poses a substantial threat of serious harm to the public, and the alleged conduct, if true, would subject the Lawyer to the imposition of Sanctions under Rule 505 or to transfer to disability inactive status as provided in Rule 515; or
(3) a Lawyer has failed, without justifiable grounds, to cooperate with or respond to a request from the Supreme Court, the Professional Conduct Board, a Hearing Committee or Bar Counsel.

(b) **Petition for Interim Suspension by Bar Counsel**. At any time, Bar Counsel may file a petition with the Supreme Court, supported by affidavit setting forth the specific facts upon which the petition is based, requesting that the Lawyer be placed on interim suspension. Contemporaneously with the filing of the petition, Bar Counsel shall make a reasonable attempt to provide the Lawyer with notice that a petition for immediate interim suspension has been transmitted to the Supreme Court. Such notice may include personal service, service by mail, notice by telephone or notice by other electronic means.

(c) **Recommendation by Hearing Committee**. At any point after the filing of Formal Charges, a Hearing Committee may give written direction to Bar Counsel to petition the Supreme Court for an order of interim suspension. The Hearing Committee shall base all recommendations concerning interim suspension upon the criteria set forth in subsection (a) of this Rule.

(d) **Court Action**. Upon receipt of a petition for interim suspension, the Supreme Court may:

(1) order interim suspension;
(2) deny the petition for interim suspension;
(3) make an order of reference pursuant to Rule 525(j); and/or
(4) schedule the matter for oral argument.

Any order of interim suspension shall be served upon the Respondent and Bar Counsel by the clerk of the Supreme Court.

(e) **Limitations on Practice and Notice**. An interim suspension under this Rule shall constitute a suspension of the Lawyer for purposes of Rules 516 and 517.

(f) **Motion for Dissolution or Amendment**. Any motion for dissolution or amendment of an order of interim suspension shall be filed with the Supreme Court.

(1) **Service and Content of Motion**. The motion shall be in writing, supported by affidavits setting forth specific reasons why the order of interim suspension should be dissolved or amended. A copy of the motion, together with the supporting affidavits, shall include proof of compliance with Rules 516 and 517 and shall be served upon the other party.

(2) **Time for Filing**. The motion for dissolution or amendment may be filed at any time following the entry of the Supreme Court's order of interim suspension.

(3) **Applicable Rules**. Any motion filed under this subsection shall be administered pursuant to the Idaho Appellate Rules.

(g) **Injunction on Maintenance of Trust Funds**. Any order of interim suspension that restricts the Respondent's maintenance of a trust account in connection with his or her practice of law, when served on any bank maintaining such trust account, shall serve as an injunction to prevent such bank from making further payment from such trust account or accounts except in accordance with restrictions stated in the order.

RULE 511. Formal Charge Proceedings

(a) **Action by Board of Commissioners**. Before a Formal Charge complaint shall be filed against a Lawyer by Bar Counsel, the Board of Commissioners must make a finding of probable cause and approve the filing.

(b) **Complaint**. Bar Counsel shall institute Formal Charges by filing a complaint with the Clerk. The allegations of the complaint must be specific enough to inform the Respondent of the alleged misconduct. A copy of the complaint shall be served upon the Respondent, as provided in Rule 523(c).

(c) **Assignment to Hearing Committee**. Upon the filing of a Formal Charge complaint, the Chair of the Professional Conduct Board shall appoint, from its approved membership, a Hearing Committee to conduct the matter. Upon assignment of the matter to a Hearing Committee, the Clerk shall send the notice of assignment, a copy of the complaint and any subsequent pleadings to the Hearing Committee members.

(d) **Answer.** The Respondent shall file his or her written answer with the Clerk and serve the answer upon Bar Counsel within 21 days after service of the complaint, unless Bar Counsel has extended the time to answer. The Clerk shall send the answer to the Hearing Committee.

(e) **Failure to Answer**. If the Respondent fails to answer the complaint within the prescribed time, or the time as extended, the factual allegations of the complaint shall be deemed admitted, unless Respondent demonstrates his or her failure to answer resulted from mistake, inadvertence, surprise or excusable neglect.

(f) **Scheduling Order**. Within 21 days after the Hearing Committee has received the answer, the chair of the Hearing Committee shall hold a scheduling conference with the parties, for the purpose of establishing timetables for the completion of the case. Thereafter, the chair shall issue a scheduling order, declaring discovery deadlines, trial dates and any other significant dates for the conduct of the matter. If the Respondent has failed to answer the complaint within the time prescribed, or the time as extended, the scheduling order shall also specify that all factual allegations of the complaint have been deemed admitted and/or may provide for the procedure to determine whether Respondent's failure to respond is due to mistake, inadvertence, surprise or excusable neglect. The Hearing Committee chair should seek to conduct the matter so the hearing is held within 120 days from the scheduling conference. The Clerk shall serve copies of the scheduling order upon all parties.

(g) **Place and Manner of Hearing**. If a resident of Idaho, Respondent has the right to have the hearing held in the county of his or her residence provided he or she has requested the same in his or her answer. If not a resident of Idaho or if the Respondent has not requested to have the hearing held in the county of his or her residence in the answer, the hearing shall be at the place designated by the chair of the Hearing Committee. The hearing shall be conducted in the manner provided in Rule 525 and may be continued from time to time as the Hearing Committee, in its discretion, may permit.

(h) **Hearing Committee Findings, Conclusions and Recommendations**. In every Formal Charge case assigned to it, the Hearing Committee shall issue its findings of fact, conclusions of law and recommendations.

(1) **Service on Parties**. The Hearing Committee shall send to the Clerk, who shall serve upon all parties, the findings of fact, conclusions of law and recommendations within 28 days following the conclusion of the hearing.

(2) **Motion to Alter or Amend**. A motion to alter or amend the findings and recommendations of a Hearing Committee may be filed by either party, not later than 14 days after those findings of fact, conclusions of law and recommendations have been served upon the parties. The Hearing Committee shall consider the motion, and shall, within 14 days of receipt of the motion:

(A) alter or amend its findings of facts, conclusions of law, and recommendations;

(B) deny the motion; or

(C) schedule the motion for hearing.

(3) **Filing with Clerk**. If no motion to alter or amend is filed, the findings of fact, conclusions of law, and recommendations become final within 14 days after they are issued by the Hearing Committee. If a motion to alter or amend has been filed, the findings of fact, conclusions of law, and recommendations become final within 14 days following disposition of such motion. The Clerk shall immediately serve a copy of the final findings of fact, conclusions of law and recommendations upon the parties.

(i) **Recommendation of Public Reprimand**. If the final findings of fact, conclusions of law and recommendations of the Hearing Committee is to impose a public reprimand as provided in Rule 506(e), the public reprimand will be imposed unless either party appeals that recommendation. To appeal such recommendation, the party must file a notice of intent to appeal with the Clerk within 21 days of service of the recommendation. The Clerk shall file the record with the Supreme Court within 21 days of receipt of the notice of intent to appeal. Upon the filing of the record with the Supreme Court, the appeal will proceed as set forth in subsection (k) of this Rule. If the Hearing Committee's recommendation to impose a public reprimand is not appealed within 21 days as set forth above, the public reprimand shall be imposed and published as provided in Rule 506(e).

(j) **Recommendation of Public Censure, Suspension or Disbarment**. Within 21 days of service of the Hearing Committee's recommendation of a public censure, suspension or disbarment, the Clerk shall transmit all findings of fact, conclusions of law and recommendations to the Supreme Court, together with the entire record of the proceeding. In all cases in which a Hearing Committee recommends suspension or disbarment, it may recommend the Supreme Court immediately suspend the Respondent from the practice of law pending Supreme Court resolution of the matter. This subsection also applies in all cases where the Sanction of public censure and/or suspension has been withheld, as provided in Rule 507.

(k) **Supreme Court Review**. In Formal Charge proceedings, the Respondent and/or Bar Counsel may appeal to the Supreme Court all Hearing Committee decisions that fully dispose of the entire proceeding.

(1) **Appeal Filed**. Within 21 days following the filing in the Supreme Court of findings of fact, conclusions of law and

recommendations, either party may file a Notice of Appeal with the Supreme Court. Such Notice shall be a brief statement indicating the party intends to contest any or all of the findings of fact, conclusions of law and recommendations of the Hearing Committee. The Notice shall be served on the other party. After the filing of the record and Notice of Appeal with the Supreme Court, the parties shall file briefs on the schedule to be provided by the Supreme Court. Oral argument, if desired by the Supreme Court, shall be at a time and place scheduled by the Supreme Court.

(2) **No Appeal Filed**. If no appeal is filed with the Supreme Court within 21 days following the filing in the Supreme Court of the findings of fact, conclusions of law and recommendations, the Supreme Court may enter its decision or order review on its own motion. The Supreme Court may modify the Hearing Committee's recommendations upon notice and opportunity to be heard. The Supreme Court may also remand a case to the Hearing Committee for further consideration.

RULE 512. Lawyers Convicted of Serious Crime

(a) **Lawyer's Duty to Report**. Any Lawyer convicted of a Serious Crime in any jurisdiction shall report that fact to the Bar within 14 days of the occurrence of that Conviction. Failure to make such a report shall, in itself, constitute grounds for imposition of Sanctions under Rule 505.

(b) **Determination of Serious Crime**. Upon being advised that a Lawyer has been convicted of a crime, Bar Counsel shall determine whether the crime constitutes a Serious Crime. If the crime is a Serious Crime, Bar Counsel shall begin Formal Charge proceedings against the Respondent, as provided in Rule 511. Bar Counsel may also petition the Supreme Court for interim suspension, as provided in Rule 510. If the crime is not a Serious Crime, Bar Counsel shall process the matter in the same manner as any other information coming to his or her attention.

(c) **Conviction as Conclusive Evidence**. A certified copy of a judgment of Conviction constitutes conclusive evidence that the Lawyer committed the crime, and the sole issue in any hearing regarding the Conviction shall be the nature and extent of the Sanction to be imposed.

(d) **Dissolution or Amendment of a Sanction upon Vacation or Reversal of Criminal Conviction.** If an appeals court vacates or reverses a Lawyer's Conviction of a Serious Crime, or if a trial court enters an order granting a motion for a new trial, a motion for judgment of acquittal, or a motion to withdraw a plea of guilty that removes a Lawyer's Conviction of a Serious Crime, which Conviction was a basis for a Sanction under these Rules, the Lawyer may file with the Clerk a motion for dissolution or amendment of the Sanction, which shall be handled, as provided in Rule 509(d). Any reinstatement or readmission resulting from a dissolution or amendment of a Sanction may provide for such conditions as the Supreme Court deems appropriate in the interest of justice, the public, the Respondent, the Bar and/or the former or prospective clients of the Respondent. The dissolution or amendment of a Sanction will not automatically terminate any formal proceeding then pending against the Lawyer, the disposition of which shall be determined by the Hearing Committee on the basis of the available evidence other than Conviction.

RULE 513. Reciprocal Sanctions

(a) **Duty of Lawyers**. All Lawyers upon whom a Sanction has been imposed in another jurisdiction shall so inform Bar Counsel within 14 days of the imposition of the Sanction. Failure to make such a report shall, in itself, constitute grounds for imposition of Sanctions under Rule 505.

(b) **Private Discipline in Another Jurisdiction**. Upon being informed that private discipline has been imposed upon a Lawyer in another jurisdiction that is the equivalent of a private reprimand or an informal admonition under Rule 506(g) or (h), Bar Counsel may issue a private reprimand or informal admonition in this State with or without further investigation.

(c) **Public Discipline in Another Jurisdiction**. Upon being informed that a Sanction has been imposed upon a Lawyer, Bar Counsel may seek an ex parte order from the Chair of the Professional Conduct Board directing the Lawyer to show cause, if any, why the identical Sanction should not be imposed in this State.

(d) **Hearing Committee Procedures**. The Chair of the Professional Conduct Board, following the issuance of the order to show cause, shall assign the matter to a Hearing Committee to conduct the show cause hearing.

(1) **Show Cause Hearing**. Within ten days following the issuance of the Chair's assignment order, the Hearing Committee chair shall hold a scheduling conference with the parties to schedule a hearing on the order to show cause. Thereafter, the Hearing Committee chair shall issue a scheduling order with notice to all parties.

(2) **Effect of Sanction in Another Jurisdiction**. A final determination of misconduct by the Respondent in another jurisdiction is conclusive and shall not be subject to relitigation in this State. Any resignation in lieu of disciplinary proceedings in any jurisdiction shall be deemed a final determination of misconduct by the Respondent.

(3) **Scope of Hearing**. After hearing, the Hearing Committee shall recommend the imposition of an identical Sanction in this State unless the Hearing Committee finds that Respondent has shown by clear and convincing evidence that it appears clearly, from the face of the record from which the Sanction is predicated, that:

(A) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(B) imposing an identical Sanction in this State would result in grave injustice.

(4) **Procedure Following Hearing**. After the show cause hearing (regardless whether the Respondent appears before the Hearing Committee), the Hearing Committee shall issue its findings of fact, conclusions of law and recommendations and proceed as provided in Rule 511(h).

(A) **Recommendation of Public Reprimand**. If the Hearing Committee recommends the imposition of a public reprimand, the case shall proceed as provided in Rule 511(i).

(B) **Recommendation of Public Censure, Suspension or Disbarment**. If the Hearing Committee recommends the imposition of a public censure, suspension or disbarment, the case shall proceed, as provided in Rule 511(j).

(e) **Effect of Stay of Discipline in Other Jurisdiction**. If the Sanction imposed in the other jurisdiction has been stayed there, any reciprocal Sanction imposed in this State shall be deferred until the stay expires.

(f) **Appeals**. All appeals of the imposition of reciprocal Sanctions shall proceed as provided in Rule 511(k).

RULE 514. Imposition of Sanctions by Stipulation

(a) **Stipulation Contents**. Following the filing of Formal Charges against a Respondent, the Respondent and Bar Counsel may resolve the matter by stipulation. Any stipulation shall set forth a summary of the Formal Charge allegations, admitted factual allegations, admitted violations of the Idaho Rules of Professional

Conduct, charges being dismissed, if any, and the agreed upon Sanction. Bar Counsel and the Respondent shall sign the stipulation. Each stipulation shall also provide either:

(1) if the Hearing Committee or the Supreme Court rejects the stipulation, Sanction or recommendation, each party has the right to withdraw from the stipulation and proceed to a hearing on the merits; or

(2) if the Hearing Committee or the Supreme Court rejects the stipulation, Sanction or recommendation, the parties agree that the Supreme Court may impose the Sanction it deems appropriate on the record or may take whatever action the Supreme Court deems appropriate.

(b) **Consideration by Hearing Committee and Supreme Court**. After the stipulation has been executed, either party shall file it with the Clerk, who shall forward copies of it to the Hearing Committee. The Hearing Committee will consider the stipulation and enter its decision or order a hearing on its own motion.

(1) **Public Reprimand**. If the stipulated Sanction is a public reprimand, and the Hearing Committee agrees that a public reprimand is the appropriate Sanction, the Hearing Committee shall issue an order imposing the public reprimand.

(2) **Public Censure, Suspension or Disbarment**. If the stipulated Sanction is a public censure, suspension, withheld public censure, withheld suspension or disbarment, and the Hearing Committee agrees that the stipulated Sanction is appropriate, the Hearing Committee shall issue a recommendation to the Supreme Court. The Supreme Court will then consider the recommendation as set forth in Rule 511(k)(2) and enter its decision or order a hearing on its own motion.

RULE 515. Disability Inactive Status

(a) **Involuntary Commitment or Adjudication of Incompetence**. If a Respondent has been judicially declared incompetent or is involuntarily committed on the grounds of incompetency or disability, the Supreme Court, upon proper proof of the fact, shall enter an order immediately transferring the Respondent to disability inactive status for an indefinite period until further order of the Supreme Court. A copy of the order shall be served, in the manner the Supreme Court may direct, upon the Respondent, his or her guardian and/or the director of the institution to which the Respondent has been committed.

(b) **Inability to Properly Defend**. If a Respondent alleges in the course of a disciplinary proceeding an inability to assist in his or her defense due to mental or physical incapacity, Bar Counsel shall petition the Supreme Court to immediately transfer the Respondent to disability inactive status pending determination of the incapacity.

(1) If the Supreme Court determines the claim of inability to defend is valid, the disciplinary proceeding shall be deferred and the Respondent retained on disability inactive status until the Supreme Court subsequently considers a petition for transfer of the Respondent to active status. If the Supreme Court grants the petition, the interrupted disciplinary proceeding shall resume as provided in these Rules.

(2) If the Supreme Court determines the claim of inability to defend to be invalid, the disciplinary proceeding shall resume. The Respondent may immediately be placed on interim suspension pending the final disposition of the matter.

(c) **Proceedings to Determine Incapacity**. Bar Counsel shall investigate information relating to a Lawyer's physical or mental condition that adversely affects the Lawyer's ability to practice law and, where warranted, report that information to the Board of Commissioners.

(1) **Petition**. The Board of Commissioners, upon reasonable cause, shall direct Bar Counsel to petition the Supreme Court to determine whether the Lawyer is unable to adequately practice law because of mental illness, senility, excessive use of alcohol or drugs, or other mental or physical incapacity.

(2) **Service**. A copy of the petition shall be served upon the Respondent by Bar Counsel concurrently with the filing of the petition.

(3) **Action by Supreme Court**. Upon receipt of the petition, the Supreme Court may take such action as it deems appropriate, including but not limited to:

(A) Reference of the matter to a person or committee for hearing and fact-finding pursuant to Rule 525(j);

(B) Provision for an examination of the Respondent, at the expense of the Bar, by such qualified medical experts as the Supreme Court, or any person or committee to which the matter has been referred, may designate; and/or

(C) Abatement, upon its own motion or the motion of either party, of any pending disciplinary proceedings against the Respondent.

(d) **Notice of Transfer to Disability Inactive Status**. Bar Counsel shall give notice to the public of Respondent's transfer to disability status by:

(1) causing a notice of the transfer to disability inactive status to be published in the official Bar publication and in a newspaper of general circulation in each judicial district in which the Respondent maintained an office for the practice of law; and

(2) transmitting (by electronic means or otherwise) a certified copy of the Supreme Court order transferring Respondent to disability inactive status to the administrative judge and trial court administrator of each judicial district in the State, to each district court judge and magistrate in the judicial district where the Respondent maintained an office for the practice of law, and to such other persons, entities or organizations as may be indicated to protect the interests of the public and the clients of the Respondent.

(e) **Reinstatement from Disability Inactive Status**.

(1) **Generally**. No Respondent transferred to disability inactive status may resume active status except by order of the Supreme Court.

(2) **Petition**. Any Respondent transferred to disability inactive status shall be entitled to petition for transfer to active status once a year, or at whatever shorter intervals the Supreme Court may direct.

(3) **Medical Examination**. Upon the filing of a petition for transfer to active status, the Supreme Court may take whatever action it deems necessary or proper to determine whether the disability has been removed, including a direction for an examination of the Respondent by qualified medical experts designated by the Supreme Court. In its discretion, the Supreme Court may direct the expense of the examination be paid by the Respondent.

(4) **Waiver of Doctor-Patient Privilege**. With the filing of a petition for reinstatement to active status, the Respondent shall be required to disclose the name of each psychiatrist, psychologist, physician, and hospital or other institution or health care provider by whom or in which the Respondent has been examined or treated since the transfer to disability inactive status. The Respondent shall furnish to the Supreme Court written consent to the release of information and records relating to the disability if requested by the Supreme Court or the court-appointed medical experts.

(5) **Proof of Legal Competence**. The Supreme Court may also direct the Respondent to establish proof of legal competence, which proof may include certification by the Board of

Commissioners of successful completion of the Idaho bar examination.

(6) **Granting Petition for Transfer to Active Status**. The Supreme Court shall grant the petition for transfer to active status upon a showing by clear and convincing evidence that the disability has been removed.

(7) **Judicial Declaration of Competence**. If a Respondent transferred to disability inactive status on the basis of a judicial determination of incompetence has been judicially declared to be competent, the Supreme Court may dispense with further evidence that his or her disability has been removed and may immediately direct his or her reinstatement to active status upon terms as are deemed proper and advisable.

(f) **Notice of Reinstatement**. Following entry of the Supreme Court's order reinstating the Respondent to active status, the Board of Commissioners shall:

(1) cause a notice of reinstatement to active status to be published in the official Bar publication; and

(2) transmit promptly a certified copy of the order of reinstatement to active status to the presiding judge of the court of each judicial district in which the Respondent is entitled to practice law in this State before his or her transfer to disability inactive status.

(g) **Confidentiality**. The confidentiality of disability inactive records and proceedings shall be governed by Rule 521(d).

RULE 516. Duties after Limitations on the Right to Practice Law

(a) **Duties**. Unless otherwise specified, a Supreme Court order imposing interim suspension, suspension, disbarment, resignation in lieu of disciplinary proceedings or transfer to disability inactive status, shall be effective upon date of entry. After the date of entry, the Respondent shall:

(1) not accept any new retainer or engage as a Lawyer for another in any new case or legal matter of any nature;

(2) have 14 days after the effective date of the order limiting the right to practice law to wind up and complete on behalf of any client, all matters pending on the entry date;

(3) refund any part of any fees paid in advance that have not been earned;

(4) move for leave to withdraw, or to substitute counsel in any pending litigation, and notify opposing counsel and adverse parties of such withdrawal or substitution of counsel;

(5) not use any sign or advertise that he or she, either alone or with any other person, has, owns, conducts or maintains a law office or office of any kind for the practice of law, or that he or she is entitled to practice law, and he or she shall promptly remove any sign indicating same;

(6) not use any stationery, bank accounts or checks whereon his or her name appears as a Lawyer or attorney at law;

(7) promptly remove his or her listing from any telephone directory indicating he or she is a Lawyer or attorney or holds a similar title;

(8) promptly contact the publishers of Martindale-Hubbell law directory and any other listing in which his or her name appears and cause the removal of any listing that states he or she is a member of the Bar in good standing;

(9) comply with the provisions of the Idaho Code concerning membership and participation in a professional corporation or association authorized to practice law for a profit;

(10) not practice law, not appear as an attorney before any court, justice, judge, board, commission, division or other public authority or agency and not share in any fee for legal service performed by himself or herself;

(11) not maintain a presence or occupy an office where the practice of law is conducted; and

(12) comply with any other requirement of the Supreme Court.

(b) **Failure to Comply**. Failure to comply with the provisions of this section may be grounds for a further Sanction, the imposition of a previously withheld Sanction, the denial of a petition to dissolve an interim suspension or the denial of a motion to reinstate.

RULE 517. Notice of Limitations on the Right to Practice Law

(a) **Notice**. Notice of a Supreme Court order imposing interim suspension, suspension, disbarment, resignation in lieu of disciplinary proceedings or transfer to disability inactive status, shall be given or caused to be given by the Respondent or a person appointed by the Supreme Court to:

(1) All clients being represented in pending matters;

(2) Any co-counsel in pending matters;

(3) Any opposing counsel in pending matters;

(4) All adverse parties in pending matters who are not represented by counsel; and

(5) Any other party and/or financial institution as may be necessary to protect the interests of clients or the public.

(b) **Contents of Notice**. The notice shall state:

(1) The Respondent is disqualified to act as a Lawyer in this State by reason of the order;

(2) The effective date of the order;

(3) The Respondent's residence or other address where communications can be sent;

(4) The place of residence of the client, in the case of notice to co-counsel, counsel for adverse parties, or an adverse party;

(5) The right of the client, and any counsel presently representing the client, to obtain any papers or other property to which they are entitled; and

(6) The times and places at which the papers and other property may be obtained, calling attention to any urgency for obtaining the papers and other property.

(c) **Service of Notice**. The notice required by this Rule shall be given by registered or certified mail, return receipt requested, as soon as practicable after the entry of the Supreme Court's order.

(d) **Filing of Lawyer's Affidavit**. Within 14 days after the entry of a Supreme Court order imposing interim suspension, suspension, disbarment, resignation in lieu of disciplinary proceedings or transfer to disability inactive status, the Respondent must file with the Supreme Court and serve upon Bar Counsel an affidavit containing a statement that he or she has complied fully with the provisions of this Rule.

(e) **Failure to Comply**. Failure to comply with the provisions of this section may be grounds for a further Sanction, the imposition of a previously withheld Sanction, the denial of a petition to dissolve an interim suspension or the denial of a motion to reinstate.

(f) **Notice to Public**. Bar Counsel shall give notice to the public of a Respondent's interim suspension, suspension, disbarment, or resignation in lieu of disciplinary proceedings by promptly:

(1) causing a notice of the Sanction to be published in the journal of the official Bar publication and in a newspaper of general circulation in each judicial district in which the Respondent maintained an office for the practice of law; and

(2) transmitting (by electronic means or otherwise) a certified copy of the Supreme Court order imposing a Sanction to the administrative judge and trial court administrator of each judicial district in the State, to each district court judge and magistrate in the judicial district where the Respondent maintained an office for the practice of law, and to such other persons, entities or organizations as may be indicated to

protect the interests of the public and the clients of the affected Respondent.

RULE 518. Reinstatement after Suspension

(a) **Reinstatement after Suspension of 90 Days or Less.** A lawyer who has been suspended for 90 days or less pursuant to disciplinary proceedings shall be reinstated at the end of the period of suspension by filing with the Supreme Court and serving upon Bar Counsel an affidavit stating he or she has complied fully with the requirements of the suspension order, has paid any required fees and costs, and has reimbursed the Bar for any amounts owed related to the disciplinary proceedings and, if applicable, for any amounts paid from the Client Assistance Fund based on the lawyer's dishonest conduct.

(b) **Reinstatement after Suspension for More Than 90 Days.** A lawyer suspended for more than 90 days may be readmitted upon showing that he or she has the moral qualifications, competency and learning in the law for admission to practice law in this State, that his or her resumption of the practice of law within this State will not be detrimental to the integrity of the Bar, to the administration of justice or against the public interest, that he or she has complied with all the terms of his or her suspension, and that he or she has reimbursed the Bar for any amounts owed related to the disciplinary proceedings and, if applicable, for any amounts paid from the Client Assistance Fund based on the lawyer's dishonest conduct.

(1) **Petition**. A petition for reinstatement by a suspended lawyer may be filed no sooner than 90 days prior to the end of his or her term of suspension. No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed on behalf of the same lawyer.

(2) **Place of Filing**. Petitions for reinstatement by a suspended lawyer shall be filed with the Clerk and served upon Bar Counsel.

(3) **Advance Cost Deposit**. Such petitions shall be accompanied by an advance cost deposit in an amount of not less than $1500 to cover anticipated costs of the reinstatement proceeding. If the costs of the proceeding are less than the deposit, any unused amounts shall be returned to the suspended lawyer at the conclusion of the proceedings. If the costs of the proceeding exceed the advance cost deposit, the suspended lawyer must reimburse such costs prior to reinstatement.

(4) **Processing Petition**. Within 14 days following receipt of the petition, the Chair of the Professional Conduct Board shall assign the petition to a Hearing Committee.

(A) **Hearing.** The Hearing Committee shall schedule a hearing to be held within a reasonable time after the matter is assigned. The Clerk shall serve a copy of the notice of hearing upon suspended lawyer and Bar Counsel at least 14 days in advance of the hearing, stating the date, time and place of hearing. The notice shall advise the suspended lawyer that he or she is entitled to be represented by counsel, to cross-examine witnesses and to present evidence in his or her own behalf.

(B) **Burden of Proof**. The suspended lawyer shall have the burden of demonstrating by clear and convincing evidence that he or she has met the requirements, as herein above set forth or as set forth in the Supreme Court order of suspension, for reinstatement to the practice of law in this State.

(C) **Report of Hearing Committee**. The Hearing Committee shall file a report containing its findings of fact, conclusions of law and recommendations, together with the record, with the Clerk. A copy of the Hearing Committee's report shall be served on the suspended lawyer and Bar Counsel

(D) **Time of Decision.** The Hearing Committee's decision shall be rendered within 21 days after the matter is fully submitted.

(E) **Submission to Court.** The Professional Conduct Board shall cause the Clerk to submit the entire record of the proceedings before the Hearing Committee to the Supreme Court and serve a copy thereof on the suspended lawyer and Bar Counsel.

(F) **Procedure After Submission**. In all reinstatement proceedings, the suspended lawyer and/or Bar Counsel may appeal to the Supreme Court all Hearing Committee findings of fact, conclusions of law and recommendations.

(1) **Appeal Filed**. Within 21 days following the filing in the Supreme Court of findings of fact, conclusions of law and recommendations, either party may file a Notice of Appeal with the Supreme Court. Such Notice of Appeal shall be a brief statement indicating the party intends to contest any or all of the findings of fact, conclusions of law and recommendations of the Hearing Committee. The Notice of Appeal shall be served on the other party. After the filing of the record and the Notice of Appeal with the Supreme Court, the parties shall file briefs on the schedule to be provided by the Supreme Court. Oral argument, if desired by the Supreme Court, shall be at a time and place scheduled by the Supreme Court

(2) **No Appeal Filed**. If no appeal is filed with the Supreme Court within 21 days following the filings in the Supreme Court of the findings of fact, conclusions of law and recommendations, the Supreme Court may enter its decision or order further proceedings. The Supreme Court may modify the Hearing Committee's recommendations upon notice and opportunity to be heard. The Supreme Court may also remand a case to the Hearing Committee for further consideration.

(G) **Order of Court.**

(1) **Adverse Determination**. If the suspended lawyer is determined by the Supreme Court to be not fit to resume the practice of law, the petition shall be denied.

(2) **Reinstatement**. If, however, the suspended lawyer is found to be fit to resume the practice of law, the order of the Supreme Court may provide for reinstatement upon such conditions as the Supreme Court deems appropriate in the interest of justice, the public, the suspended lawyer, the Bar and/or former or prospective clients of the suspended lawyer. Conditions on reinstatement may include, but need not be limited to, payment of the costs and expenses of the proceedings had in the case; restitution to parties harmed by the suspended lawyer's misconduct that constituted grounds for the suspension in his or her case; and/or the suspended lawyer's furnishing to the Supreme Court such proof of competency as it may require, which proof may include certification by the Board of Commissioners that the suspended lawyer, subsequent to the date of such conditional order of reinstatement, has completed successfully the Idaho bar examination.

(c) **Reinstatement after Vacation or Reversal of Criminal Conviction**. If an appeals court vacates or reverses a lawyer's Conviction of a Serious Crime or if a trial court enters an order granting a motion for a new trial, a motion for judgment of acquittal or a motion to withdraw a plea of guilty that removes a lawyer's Conviction of a Serious Crime, which Conviction was a basis for suspension under these Rules, the lawyer may file a petition for reinstatement following the procedures set forth in Rule 512(d).

(d) **Reinstatement or Readmission after Reciprocal Reinstatement or Readmission**. Where the Supreme Court has imposed a suspension or disbarment solely on the basis of imposition of discipline in another jurisdiction, and where the suspended lawyer gives notice to the Supreme Court that he or she has been reinstated or readmitted in the other jurisdiction, the Supreme Court shall determine whether the suspended lawyer should be reinstated or readmitted. Unless Bar Counsel presents evidence demonstrating procedural irregularities in the other jurisdiction's proceeding or presents other compelling reasons, the Supreme Court shall reinstate or readmit a suspended lawyer who has been reinstated or readmitted in the jurisdiction where the misconduct occurred.

RULE 519. Protection of Clients' Interests

(a) **Order of Appointment**. If a Respondent has been transferred to disability inactive status, or has disappeared or died, or has been suspended or disbarred and there is evidence that he or she has not complied with Rule 517, and no partner, executor or other responsible party capable of conducting the Respondent's affairs is known to exist, the administrative judge in the judicial district in which the Respondent maintained a practice (the administrative judge), upon proper proof of the fact, shall enter an order or appointment. Such order may include the appointment of a Lawyer or Lawyers (appointee(s)) to inventory the files of the Respondent, an injunction prohibiting all financial institutions holding all trust and operating accounts of the Respondent from disbursing monies on the signature of the Respondent or at his or her direction, and direction to take such action as seems indicated to protect the interests of the Respondent and his or her clients.

(b) **Nondisclosure of Client Information**. No appointee shall be permitted to disclose any information contained in any files except as permitted by Idaho Rule of Professional Conduct 1.6. The attorney-client privilege and Idaho Rule of Professional Conduct 1.6 confidentiality protection shall be extended so that review of the file by the appointee(s) is not deemed to be disclosure to a third party.

(c) **Powers and Duties of Appointee(s)**. After obtaining access to and custody of the Respondent's files, the appointee(s) shall:
   (1) Notify each client of his or her right to obtain any papers or other property to which he or she is entitled and the times and places at which the papers or other property may be obtained, calling attention to any urgency for action on the client's part;
   (2) Release to each client, upon request and the signing of proper releases, the papers and other property to which he or she is entitled;
   (3) Place fee-generating work with other Lawyers consistent with Rule 519(g); and
   (4) Within 90 days after appointment, file a final report with the Supreme Court, the administrative judge and Bar Counsel, including a request for release from the order of appointment and for disposition of any and all files that remain in the control and custody of such appointee(s).

(d) **Trust and Operating Accounts**. The Bar Counsel or the appointee(s) shall serve a copy of the order of appointment on all financial institutions holding the trust and operating accounts of the Respondent, including all accounts on which the Respondent is principal or trustee. Service of the order of appointment on a financial institution shall permit the appointee(s) to substitute his or her authority for that held previously by the Respondent in all respects with regard to such accounts.

(e) **Duty of Lawyers**. It shall be the duty of all licensed Lawyers to share cooperatively in the provision of services under this Rule and, when necessary, to do so without remuneration, though it shall not be their duty to bear expenses or costs incident to such services.

(f) **Compensation of Appointee(s)**. Any costs incurred by the appointee(s) for work done under this Rule shall be paid from fees owing to the Respondent or by the Bar. This Rule shall not be construed to limit or preclude the administrative judge from allowing reasonable fees in proper cases for work done under this Rule, which fees may be accepted without waiver of or prejudice to the qualified immunity provided in Rule 520(c), so long as the fees are not privately negotiated.

(g) **Referral of Fee-Generating Work**. In administering this Rule, it is intended that as a general rule, fee-generating work that can be placed by the appointee(s) with private practitioners for handling under reasonable and customary arrangements for remuneration will be so placed and will not be retained by the appointee(s), and all exceptions thereto shall be approved by the administrative judge. This Rule shall not be applied to force representation upon any objecting client.

RULE 520. Immunity

(a) **Grievants - Witnesses**. Grievances, complaints, testimony and other presentation or arguments submitted to the Professional Conduct Board, a Hearing Committee, any member of the Professional Conduct Board or of any Hearing Committee, or Bar Counsel, all proceedings and conduct maintained or engaged in under these Rules, and all testimony and showings with respect to any such matters shall be absolutely privileged, and no civil litigation predicated thereon may be instituted or maintained.

(b) **Disciplinary Authorities**. Members of the Professional Conduct Board, members of the Hearing Committees, Bar Counsel, members of the Board of Commissioners, and members of their respective staffs shall be immune from civil suit and damages for any conduct or occurrence in the course of or arising out of performance of any official duties in connection with these Rules.

(c) **Appointees**. Any appointee under these Rules shall be immune from civil liability for acts and omissions in the performance of his or her duties, except for demonstrated fraudulent or malicious conduct, so long as the appointee is acting
   (1) Pursuant to any order made under or pursuant to these Rules;
   (2) Pursuant to any like or similar order directing or providing for legal assistance to clients or persons adversely affected by the Respondent; or
   (3) Pursuant to any written direction by Bar Counsel to act in the public interest or for the protection of any member of the public.

RULE 521. Access To Information

(a) **Availability of Information.** All proceedings and records relating to Professional Conduct, except the work product of Bar Counsel, a Hearing Committee or the Professional Conduct Board, shall be available to the public after the filing and service of Formal Charges, unless the Grievant or Respondent obtains a protective order for specific testimony, documents or records.

(b) **Confidentiality.** Prior to the filing and service of Formal Charges, a Professional Conduct matter is confidential within Bar Counsel's Office, except that the pendency, subject matter and status of a Professional Conduct matter may be disclosed by Bar Counsel if:
   (1) the Lawyer has waived confidentiality in writing;
   (2) the matter is based upon allegations that include either the conviction of a crime or reciprocal discipline;

(3) the matter is based upon allegations that have become generally known to the public; or
(4) there is a need to notify another person or organization, including the Client Assistance Fund, in order to protect the public, the administration of justice, or the legal profession.

(c) **Public Hearings.** After the filing and service of Formal Charges or a petition for reinstatement, the proceedings in a Professional Conduct matter are public, except for:
(1) deliberations of a Hearing Committee, Professional Conduct Board, or Court; or
(2) information with respect to which the Hearing Committee has issued a protective order.

(d) **Disability Inactive Proceedings.** Except as otherwise permitted by Rule 515, all proceedings and records relating to any transfer to or from disability inactive status are confidential. All orders transferring a Lawyer to or from disability inactive status are public.

(e) **Protective Orders.** In order to protect the interests of a Grievant, witness, third party, Lawyer or Respondent, the Hearing Committee to which a matter is assigned, or Chair of the Professional Conduct Board if the matter has yet to be assigned to a Hearing Committee, may, upon application of any person and for good cause shown, issue a protective order. The protective order shall prohibit the disclosure of specific information otherwise privileged or confidential and direct that the proceedings be conducted so as to implement the order, including requiring that the hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the application.

(f) **Request for Nonpublic Information Relating to Discipline.** A request for nonpublic information other than that authorized for disclosure under subsection (b) above shall be denied unless the request is from one of the following agencies:
(1) an agency authorized to investigate qualifications for admission to practice law;
(2) a lawyer disciplinary enforcement agency;
(3) an agency authorized to investigate qualifications for government employment; and
(4) any other agency designated by the Supreme Court.

(g) **Disclosure with Notice to Lawyer.** Except as provided in subsection (h), if Bar Counsel decides to provide nonpublic information to a requesting agency, and if the Lawyer has not signed a waiver permitting the requesting agency to obtain nonpublic information, the Lawyer shall be notified in writing at his or her last known address of the information that has been requested and the agency making the request, together with a copy of the information proposed to be released to the requesting agency. The notice shall advise the Lawyer that the information shall be released at the end of 14 days following mailing of the notice unless the Lawyer objects to the disclosure. If the Lawyer timely objects to the disclosure, the information shall remain confidential unless the requesting agency obtains a court order requiring its release.

(h) **Disclosure Without Notice to Lawyer.** If an otherwise authorized requesting agency has not obtained a waiver from the Lawyer to obtain nonpublic information and requests that the information be released without giving notice to the Lawyer, the requesting agency shall certify that:
(1) the request is made in furtherance of an ongoing investigation into misconduct by the Lawyer;
(2) the information is essential to that investigation; and
(3) disclosure of the existence of the investigation to the Lawyer would seriously prejudice that investigation.

(i) **Notice to National Discipline Data Bank.** Bar Counsel shall transmit notice of all public discipline imposed against a Lawyer, transfers to or from disability inactive status, and reinstatements to the National Lawyer Regulatory Data Bank maintained by the American Bar Association.

(j) **Scope of Duty.** All officials and employees of the agency authorized to receive information under these Rules, shall conduct themselves so as to maintain the confidentiality mandated by this Rule.

(k) **Order by Supreme Court to Make Public.** Notwithstanding any other provisions of these Rules, the Supreme Court may provide by order that review of Professional Conduct proceedings and/or records in a particular case, in all cases or in any class or group of cases, are open to the public, subject to special or protective orders of the Supreme Court. Bar Counsel and any other member of the Bar or the public shall have standing to petition the Supreme Court for a determination leading to the waiver of confidentiality in such proceedings and/or records in particular cases, and the Supreme Court may grant or deny such petitions in whole or in part as, in its discretion and in the interests of justice, it deems proper.

RULE 522. Retention of Disciplinary Records

(a) **Records Retention – Bar Counsel**. Except as otherwise provided in this Rule, Bar Counsel may permanently maintain all records related to any disciplinary process or matter.

(b) **Records of Terminated Grievances.** Bar Counsel shall destroy all records or other evidence related to a grievance terminated under Rule 509(b)(1) after five years have elapsed from the date of termination; however, Bar Counsel may maintain a docket showing the names of the Grievant and Respondent and the date of the termination. After a file has been destroyed, any response to an inquiry requiring a reference to the matter shall state there is no record of the matter. A Lawyer may answer any inquiry requiring a reference to a destroyed matter by stating that no grievance was filed.

(c) **Records Retention – Professional Conduct Board**. Professional Conduct Board members shall destroy all records in their possession related to any disciplinary process or matter upon conclusion of such process or matter, including any appeals or remands.

RULE 523. Service and Filing of Pleadings

(a) **Form of Pleadings**. The form, style and content of all pleadings shall conform to the provisions of Rule 10 of the Idaho Rules of Civil Procedure.

(b) **Signing of Pleadings**. The provisions of Rule 11 of the Idaho Rules of Civil Procedure are incorporated into these Rules.

(c) **Complaints and Petitions**. Service of complaints and petitions under these Rules shall be made by personal service under Idaho Rules of Civil Procedure 4(d)(1) and 4(d)(2) or by certified mail, return receipt requested, to the Lawyer's address, as filed with the Bar. If service cannot be made as above, service shall be made by email to the Lawyer's eService address and email address on record with the Bar or, if no eService address or email address is on record with the Bar, service shall be made by publication on the Bar's website and shall be deemed complete 14 days after such publication.

(d) **Answers, Responses and Other Pleadings**. Original answers, responses and other pleadings under these Rules shall be filed with the Clerk by personal delivery or mail. The Clerk's address is 525 W. Jefferson, Boise, Idaho 83702. Copies of original pleadings shall be served upon all parties by personal delivery, mail or electronic means.

(e) **Service**. Whenever notice is required in these Rules, the Clerk shall promptly serve such notice by regular first class mail. Service shall be complete upon mailing.

RULE 524. Subpoena Power and Witnesses

(a) **Investigatory Subpoenas**. Before Formal Charges have been filed, Bar Counsel may compel by subpoena the attendance of witnesses, and the production of pertinent books, papers and documents, in accordance with Idaho Rule of Civil Procedure 45. Subpoenas issued by Bar Counsel during the course of an investigation shall clearly indicate on their face that they are issued in conjunction with a confidential investigation under these Rules and that it is regarded as contempt of court or grounds for discipline to breach confidentiality. Consultation with an attorney is not considered such a breach.

(b) **Subpoenas for Deposition or Hearing**. After Formal Charges are filed, Bar Counsel or Respondent may, in accordance with Idaho Rule of Civil Procedure 45, compel by subpoena the attendance of witnesses and the production of pertinent books, papers and documents at a deposition or hearing under these Rules. All subpoenas shall be issued in the name of the Professional Conduct Board.

(c) **Enforcement of Subpoenas**. The District Court of the judicial district in which the attendance or production is required may, upon proper application, enforce the attendance and testimony of any witnesses and the production of any documents subpoenaed.

(d) **Quashing Subpoena**. Any attack on the validity of a subpoena so issued shall be heard and determined by the chair of the Hearing Committee before which the matter is pending or by the court wherein enforcement of the subpoena is being sought. Any resulting order is not appealable before entry of a final order in the proceeding.

(e) **Witnesses and Fees**. The subpoena process, witness fees and mileage fees shall be the same as those provided for proceedings in the district courts of the State.

(f) **Subpoena Pursuant to Law of Another Jurisdiction**. Whenever a subpoena is sought in this State pursuant to the law of another jurisdiction for use in Lawyer disciplinary or disability proceedings, and where the issuance of the subpoena has been duly approved under the law of the other jurisdiction, the chair of the Professional Conduct Board, upon petition for good cause, may issue a subpoena as provided in this Rule to compel the attendance of witnesses and production of documents in the county where the witness resides or is employed or elsewhere as agreed by the witness. Service, enforcement or challenges to this subpoena shall be as provided in these Rules.

RULE 525. Additional Rules of Procedure

(a) **Nature of Proceedings**. Disciplinary proceedings are neither civil nor criminal but are sui generis.

(b) **Rules of Civil Procedure**. Except as specifically adopted or referred to in these Rules, the provisions of the Idaho Rules of Civil Procedure shall not apply in disciplinary cases. Hearing Committee chairs shall have the discretion to allow dispositive motions that would expedite resolution of any disciplinary matter.

(c) **Rules of Evidence**. The rules of evidence, generally applicable in civil actions in the District Courts of this State, shall apply during the proceedings under these Rules; except as may be otherwise provided by these Rules.

(d) **Burden of Proof**. Bar Counsel shall have the burden of proof in proceedings seeking discipline or transfer to disability inactive status. The Respondent shall have the burden of proof in proceedings seeking reinstatement, readmission, or transfer from disability inactive status. In any show cause proceeding under these Rules, the burden of proof shall be on the party required to show cause.

(e) **Standard of Proof**. Any issue of fact shall be proved by clear and convincing evidence.

(f) **Record Availability**. All proceedings of the Professional Conduct Board or of a Hearing Committee that are not reported by a court reporter, will be recorded. A court reporter shall report all evidentiary proceedings, together with any Formal Charge proceedings for which the Hearing Committee chair requests reporting. Any recording or transcript of any proceeding is available to the parties, but is only available to others subject to the provisions of Rule 521. Upon written request to the Clerk and with prior payment arrangements, the Clerk will make arrangements to have the court reporter's transcript or a transcription of any recording delivered to the requesting party. The Clerk may require the requesting party to make arrangements to order and pay for transcripts directly with the court reporter.

(g) **Stay or Abatement**. Pending criminal or civil actions with substantial similarity to the material allegations of the alleged grounds for the imposition of Sanctions shall not stay the filing nor abate the processing of a review of a Lawyer's Professional Conduct under these Rules. Bar Counsel or the Professional Conduct Board may, in their discretion, permit such stay or abatement.

(h) **Delay**. The unwillingness or neglect of the Grievant to file a complaint or a settlement between the Grievant and the Lawyer, shall not, in themselves, justify abatement of the processing of any grievance. The time between the commission of the alleged misconduct and the filing of the grievance predicated thereon may be pertinent to whether and to what extent a Sanction should be imposed, but does not limit Bar Counsel's power to investigate and prosecute.

(i) **Time Requirements**. Except as is otherwise provided in these Rules, the time in which any act or any thing is to be done or performed is not jurisdictional.

(j) **References**. When the Supreme Court has occasion to make a finding of fact in proceedings under or in connection with these Rules, it may refer the matter to a special fact-finding committee or referee specially appointed for that purpose or may authorize the Professional Conduct Board or any Hearing Committee to so serve.

(k) **Discovery**.
  (1) **When permitted**. Discovery shall be permitted and governed as provided by the Idaho Rules of Civil Procedure.
  (2) **Non-filing of Discovery**. Discovery shall not be filed with the Clerk, but shall be served upon all parties as provided in Rule 523(d).
  (3) **Disputes**. Disputes concerning the scope and other aspects of discovery shall be determined by the chair of the Hearing Committee before which the matter is pending. All discovery orders by the Hearing Committee are interlocutory and may not be appealed before the entry of the final order.

(l) **Pre-Hearing Conference**. Hearing Committees may order such pre-hearing conferences as they deem necessary for the orderly conduct of any disciplinary proceeding.

(m) **Judicial Notice**. A Hearing Committee may take judicial notice of facts entitled to such notice; provided, however that the facts judicially noticed shall be specified by the Hearing Committee either at the time of the hearing or at the time of declaring its findings of facts, whichever it deems appropriate.

(n) **Oaths and Affirmations**. Any member of the Professional Conduct Board, any Lawyer member of a Hearing Committee in matters pending before it, and Bar Counsel in matters under investigation or prosecution by him or her may administer oaths and affirmations.

(o) **Statute of Limitations.** Proceedings under these Rules shall be exempt from all statutes of limitations.

SECTION VI
Client Assistance Fund

RULE 600. Establishment of Fund.

(a) **Purpose**. There is established, as provided in Idaho Code Section 3-409, the Client Assistance Fund of the Idaho State Bar for the purpose of promoting public confidence in the administration of justice and maintaining the integrity of the legal profession by reimbursing claimants for losses caused by the dishonest conduct of lawyers.

(b) **Effective Date**. These Rules shall be effective for claims filed with the Board after July 1, 2014. Any claims pending on the effective date of these Rules shall be processed pursuant to the Rules existing immediately prior to the effective date of these Rules.

RULE 601. Definitions.

As used in these Rules, the following capitalized terms have the meanings set forth below:

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

(b) **Board.** Board of Commissioners, the duly elected governing body of the Bar.

(c) **Claim.** A written application seeking reimbursement from the Client Assistance Fund of a Loss resulting from a Lawyer's Dishonest Conduct.

(d) **Claimant**. An entity or individual or, in the event of an individual's death or incapacity, the duly appointed personal representative or spouse of the individual, that has sustained a Loss as a result of a Lawyer's Dishonest Conduct and has filed a Claim.

(e) **Committee.** The Client Assistance Fund Committee.

(f) **Dishonest Conduct.** Wrongful acts committed by a Lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value, including but not limited to:

(1) Refusal to refund an advance payment of fees or expenses that have not been earned or incurred, as required by Rule 1.16 of the Idaho Rules of Professional Conduct; or

(2) The borrowing of funds from a client without an intention to repay those funds, or with disregard of the Lawyer's inability or reasonably anticipated inability to repay the funds.

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

(h) **Fund.** The Client Assistance Fund.

(i) **Lawyer.** A person who meets the qualifications for and is duly admitted to the practice of law in the State of Idaho.

(j) **Loss**. The loss of money or property occasioned by the Dishonest Conduct of a Lawyer occurring during the course of a Lawyer-client or fiduciary relationship between the Lawyer and the Claimant.

(k) **Rules**. Section VI of the Idaho Bar Commission Rules, governing the Client Assistance Fund.

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

RULE 602. Appropriation to and Maintenance of Fund.

The Board shall provide funding necessary for the proper payment of Claims and the costs of administration of the Fund from an assessment on the members of the Bar; from donations made to the Fund; through accrual of interest on monies held in the Fund; and, if deemed feasible by the Board, through the purchase of insurance.

(a) **Assessment**. Each fiscal year following establishment of the Fund, the Board shall assess an amount not to exceed $20 per member, with the exception of judicial members, to reimburse the Fund for any claims paid during the prior fiscal year, or until the Fund reaches a total amount of $1,000,000. In the event such assessment does not fully reimburse the Fund, the Board shall continue to assess each year an amount not to exceed $20 per member until the Fund reaches a total amount of $1,000,000.

(b) **Investment**. All monies or other assets collected for the Fund shall be held in a separate account in the name of the Fund, subject to the written direction of the Board, provided that the Board may prudently invest such portions of Fund monies that are not currently needed to pay Losses.

(1) **Accrued Interest**. Interest accrued or accruing on the monies held in the Fund may be maintained in the Fund even if the total amount of the Fund exceeds $1,000,000.

(c) **Insurance.** Insurance to cover extraordinary Losses in excess of Fund assets may be purchased by the Board, if such insurance is deemed prudent and feasible by the Board.

RULE 603. Client Assistance Fund Committee.

(a) **Establishment and Membership**. The Board shall appoint a five (5) member committee to be known as the "Client Assistance Fund Committee," which shall consist of three (3) members of the Bar in good standing and two (2) non-lawyer members.

(1) **Membership**. Members of the Committee shall serve for three (3) year terms, which are staggered and which may be renewed.

(2) **Officers**. The Board shall designate one (1) member of the Committee as Chair and one (1) member as Vice-Chair. The Chair shall be responsible for calling and presiding over Committee meetings.

(3) **Powers and Duties**. The Committee shall have the following powers and duties:

(A) Receive and evaluate Claims;

(B) Conduct hearings on Claims;

(C) Submit findings of fact, conclusions of law and recommendations to the Board;

(D) Adopt additional rules of procedure not inconsistent with these Rules, subject to approval by the Board; and

(E) Prosecute Claims for restitution to which the Fund is entitled.

(4) **Meetings**. The Committee shall meet as it deems necessary based on the number and extent of Claims received.

(5) **Quorum**. Three (3) members of the Committee shall constitute a quorum. All decisions of the Committee must be by majority vote of those present.

(6) **Compensation and Expenses**. Committee members shall receive no compensation for their services but shall be reimbursed for their travel and other reasonable expenses incidental to the performance of their duties under these Rules.

(7) **Vacancies**. Vacancies during a term shall be filled by the Board for the remainder of the unexpired term. The Board may also appoint temporary members to serve during the absence or recusal of permanent members of the Committee.

(8) **Conflict of Interest**. A member of the Committee who has or who previously had a lawyer-client relationship or fiduciary relationship with a Claimant or Lawyer who is the subject of a Claim shall not participate in the investigation or adjudication of a Claim involving that Claimant or Lawyer.

RULE 604. Recognition of Claims.

(a) **Claim**. A Claimant shall file or cause to be filed a Claim for reimbursement on a form provided by the Bar that contains the following information:

(1) The name and address of the Lawyer causing the alleged Loss;
(2) The amount of the Loss claimed;
(3) The date of the Loss or period of time during which the alleged Loss occurred;
(4) The Claimant's name and address; and
(5) A general statement of facts relative to the Claim.

(b) **Verification**. The Claim shall be verified by the Claimant.

(c) **Time of Filing**. The Claim shall be filed no later than three (3) years after the Claimant knew or should have known of the Dishonest Conduct of the Lawyer.

(d) **Place of Filing**. The Claim shall be filed with the Executive Director.

(e) **Losses not Reimbursable**. The following losses shall not be reimbursable under these Rules:
(1) Losses of spouses, children, parents, grandparents, siblings, partners, associates and employees of Lawyer(s) causing the losses;
(2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest; and
(3) Losses of any financial institution that are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract.

(f) **Special Circumstances**. In cases of extreme hardship or special and unusual circumstances, the Committee may, in its discretion, recognize a Claim that would otherwise be excluded under these Rules.

RULE 605. Processing Claims.

(a) **Evaluation of Claim**. All Claims shall be evaluated by or under the authority and direction of the Committee, which may:
(1) Dismiss the matter based on the Claimant's failure to properly file a Claim or assert a reimbursable Loss under these Rules; or
(2) Initiate an investigation of the Claim.

(b) **Investigation - Lawyer Response**. If the Committee initiates an investigation of a Claim, it shall notify the Lawyer against whom the Claim is made by effecting service as provided in Rule 614. The Lawyer shall have twenty-one (21) days from the date of service to file a written, verified response to the Claim. If the Lawyer fails to file a timely response, or acknowledges in his or her response that the Claim is reimbursable under these Rules, the Committee has discretion to recognize the Claim as valid without a hearing.

(c) **Hearing**. Hearings shall be scheduled and conducted as the Committee, in its discretion, deems appropriate.
(1) **Place of Hearing.** Hearings shall be held at the Bar, provided that a hearing may be conducted by telephonic or electronic means at the Chair's discretion.
(2) **Notice**. The Chair shall give, or cause to be given, notice to the Claimant and Lawyer stating the date, time and place of the hearing. The notice shall advise the Claimant and Lawyer of their right to be represented by counsel, to present documents and witnesses, and to cross-examine witnesses presented by the opposing party.
(3) **Scheduling Order.** The Chair may issue a scheduling order setting forth deadlines for the disclosure of witnesses and the filing of any additional documentation for the Committee's consideration at hearing. The Committee, in its discretion, may decline to review any information not timely submitted pursuant to the scheduling order.

(d) **Decision.**
(1) **Notice of Dismissal.** If during its preliminary investigation the Committee determines that a Claim is not in proper form or fails to state an essential element for reimbursement under these Rules, it shall notify the Claimant of its decision and state the reasons for the action taken.
(A) **Request for Reconsideration of Dismissal**. A Claimant may request a reconsideration of the Committee's determination by filing a written request stating the reasons for the request.
(B) **Time of Filing.** The request for reconsideration shall be filed within fourteen (14) days following the Claimant's receipt of notice under this Rule.
(C) **Service of Request**. The written request shall be served upon the Chair and the affected Lawyer as provided in Rule 614.
(D) **Failure to Timely Request**. If the Claimant fails to file a timely request for reconsideration, or the request for reconsideration is denied, the decision of the Committee is final.
(2) **Recommendation of Committee**. Following an investigation and a hearing, if conducted, the Committee shall issue and file with the Board its findings of fact, conclusions of law and recommendation. The Committee's recommendation may include dismissal of the Claim or the allowance, in whole or in part, of the Claim. In cases where it appears that there will be unjust enrichment, or the Claimant unreasonably or knowingly contributed to the Loss, the Board may, in its discretion, deny the Claim.
(A) **Service.** Service of the Committee's findings of fact, conclusions of law and recommendation shall be made upon the Claimant and Lawyer as provided in Rule 614.
(B) **Finding of Dishonest Conduct - Effect**. The Committee, for good cause, may make a finding of Dishonest Conduct for the purpose of adjudicating a claim. Such a determination is not a finding of Dishonest Conduct by the Lawyer for purposes of discipline under Section V, Rules for Review of Professional Conduct.
(C) **Manner and Order of Payment.** A recommendation that a Claim be allowed may include a determination of the manner and order of payment.
(D) **Time for Filing**. The Committee's findings of fact, conclusions of law and recommendation shall be filed with the Board within thirty (30) days following conclusion of a hearing or, if no hearing is held, within thirty (30) days of the Committee's decision based upon the record.

(e) **Review by Board**
(1) **Request for Review.** The Claimant or Lawyer may file with the Executive Director a written request for the Board's review of the Committee's findings of fact, conclusions of law and recommendation.
(A) **Time for Filing.** A request for review, if any, shall be filed within fourteen (14) days following service of the Committee's findings of fact, conclusions of law and recommendation.
(2) **Board Review.** The Board's review of the matter shall be on the record unless the Board, in its discretion, determines that the appearance of the parties, briefing, or oral argument before the Board is required. If the Board determines that additional proceedings before the Board are required, the Executive Director shall serve a notice of the date, time and place for appearing or filing on the Claimant and Lawyer.
(3) **Board Decision.** Following its review, the Board shall issue final findings of fact, conclusions of law and an order that:
(A) Affirms the Committee's recommendation;
(B) Rejects the Committee's recommendation;
(C) Modifies the Committee's recommendation; or

(D) Remands the matter to the Committee for further investigation or hearing.

(4) **Notice of Board's Decision.**

(A) **Filing and Service**. The Board shall file with the Executive Director and serve upon the Claimant and Lawyer its findings of fact, conclusions of law and order.

(B) **Time for Filing**. The Board's findings of fact, conclusions of law and order shall be filed within thirty (30) days following the conclusion of its review.

(f) **Review by Supreme Court.** The Claimant or Lawyer may file a request for review of the Board's findings of fact, conclusions of law and order with the Supreme Court.

(1) **Time for Filing**. The request for review shall be filed within fourteen (14) days following service of the Board's findings of fact, conclusions of law and order.

(2) **Place for Filing.** The request for review shall be filed with the Clerk of the Supreme Court.

(3) **Briefs – Oral Argument.** The party seeking review shall file an opening brief with the Clerk of the Supreme Court within twenty-eight (28) days following the date the request for review was filed. A responding brief shall be filed within twenty-one (21) days after the service of the opening brief. Any reply brief shall be filed within fourteen (14) days after service of the responding brief. The Supreme Court, in its discretion, may schedule oral argument at a designated time and place. Following the conclusion of oral argument, if any, the Supreme Court shall promptly enter an appropriate order.

(4) **Effect of Award.** In the event the Supreme Court enters an order approving an award under these Rules, such order shall constitute a judgment against the subject Lawyer that is enforceable as provided by law, unless the Supreme Court's order states otherwise.

RULE 606. Limitations on Reimbursement Amount.

The maximum amount that may be recovered from the Fund arising from an instance or course of Dishonest Conduct by a Lawyer is $25,000.

RULE 607. Method of Payment.

(a) **Assignment by Claimant**. If a Claim is allowed, in whole or in part, and prior to payment of the Claim, the Claimant shall execute a written assignment to the Fund of all rights of the Claimant against the Lawyer or the Lawyer's estate to the extent of the reimbursement authorized by the Board. The assignment shall specifically state that the Fund shall have no right to receive anything from the Lawyer or the Lawyer's estate until the Claimant has been reimbursed the full amount of the Claim allowed by the Board based upon the Lawyer's Dishonest Conduct.

(b) **Prompt Payment**. Upon receipt of the executed written assignment from the Claimant, the Board shall promptly pay to the Claimant the amount determined reimbursable under these Rules.

RULE 608. Subrogation.

(a) **Subrogation Rights**. If the Board authorizes payment in whole or in part of a Claim, the Fund shall be subrogated to the amount of any such payment and may recover the same either by a civil action against the Lawyer or, in the event of the Lawyer's death, insolvency or disability, against the Lawyer's personal representative or other persons administering the Lawyer's estate.

(1) **Action by Fund**. The Bar, on behalf of the Committee, may bring such action as is deemed advisable against the Lawyer or the Lawyer's estate, and shall advise the Claimant of its action. The Claimant may then join in such action to recover any losses in excess of the reimbursement amount from the Fund.

(2) **Action by Claimant**. A Claimant who brings an action directly against the Lawyer or the Lawyer's estate for recovery of losses not reimbursed by the Fund shall promptly notify the Committee of the filing of such action.

(3) **Cooperation**. The Claimant shall cooperate in any effort the Committee undertakes to obtain reimbursement for the Fund.

RULE 609. No Legal Right to Payment.

No person shall have any right to payment from the Fund as a Claimant, third-party beneficiary or otherwise.

RULE 610. Immunity.

Members of the Board, members of the Committee, the Executive Director, and their respective staffs, shall be immune from civil suit and damages for any conduct or occurrence in the course of, or arising out of, performance of any official duties in connection with these Rules.

RULE 611. Confidentiality.

(a) **Claims and Proceedings**. All Claims and proceedings and any findings of fact, conclusions of law and recommendation involving Claims for reimbursement from the Fund shall be confidential unless or until the Committee authorizes reimbursement to the Claimant.

(b) **Sealing of Record.** The Committee, in its discretion, may seal all or part of the record of a Claim to protect the privacy of the parties.

(c) **Authorized Disclosure**. These Rules shall not be construed to:

(1) Deny access to relevant information by professional discipline agencies or law enforcement authorities as the Committee shall authorize; or

(2) Prohibit the release of statistical information that does not disclose the identity of the Claimant or Lawyer.

(d) **Notice to Parties**. The Claimant and Lawyer shall be advised of the status of the Committee's consideration of the Claim and shall be informed of the final determination.

RULE 612. Compensation for Representing Claimants.

Except as may be approved by the Committee, no lawyer shall charge or accept compensation for prosecuting a claim on behalf of a Claimant under these Rules.

RULE 613. Additional Rules of Procedure.

(a) **Record Availability**. The hearing record shall be made available to the parties, at their expense, upon written request to the Executive Director. The record shall not be made available to the public except as otherwise provided by Rule 611.

(b) **Time Requirements**. Except as otherwise provided in these Rules, the time in which any action must be performed is not jurisdictional.

(c) **Rules of Civil Procedure.** Except as specifically adopted or referred to in these Rules, the Idaho Rules of Civil Procedure shall not apply in proceedings relating to the Fund.

(d) **Rules of Evidence**. Except as specifically adopted or referred to in these Rules, the Idaho Rules of Evidence shall not apply in proceedings relating to the Fund.

(e) **Evidence of Misconduct**. A certified copy of a discipline order or criminal conviction relating to a Lawyer shall be conclusive evidence that the Lawyer committed the underlying conduct.

(f) **Standard of Proof**. Any issue of fact shall be proved by a preponderance of the evidence.

RULE 614. Service.

(a) **Claims.** Service of Claims under these Rules shall be made by certified mail, return receipt requested, to the Lawyer's address as filed with the Bar. If service upon the Lawyer cannot be made as provided above, service shall be made by email to the Lawyer's eService address and email address on record with the Bar or, if no eService address or email address is on record with the Bar, service shall be made by publication on the Bar's website and shall be deemed complete 14 days after such publication.

(b) **Responses and Other Documents**. Responses and other documents filed under these Rules shall be served upon the Bar and parties by personal delivery, certified mail or electronic means.

RULE 615. Subpoenas – Witnesses –Pre-trial Procedures.

(a) **Subpoena.**

(1) **Power to Issue.** The Board and Committee may, in accordance with Idaho Rule of Civil Procedure 45, compel by subpoena the attendance of witnesses and the production of pertinent books, papers and documents at a hearing under these Rules. All subpoenas shall be issued in the name of the Board.

(2) **Issuance on Behalf of the Parties**. Either party may have subpoenas issued on their behalf, upon reasonable and timely request filed with the Board.

(3) **Failure to Comply with Subpoena**. The district court of the judicial district in which the attendance or production is required may, upon proper application, enforce the attendance and testimony of any witnesses and the production of any documents subpoenaed.

(4) **Quashing Subpoena**. Any attack on the validity of a subpoena issued under these Rules shall be heard and determined by the Chair of the Committee or by the court wherein enforcement of the subpoena is being sought. Any resulting order is not appealable before entry of a final order in the proceeding.

(5) **Witnesses and Fees**. The subpoena process, witness fees and mileage fees shall be the same as those provided for proceedings in the district courts of Idaho.

(b) **Oaths and Affirmations**. Any member of the Board or Committee may administer oaths and affirmations in pending matters relating to the Fund.

(c) **Discovery**. Discovery shall be permitted at the discretion of the Committee.

(d) **Pre-Hearing Conference**. The Committee may order such pre-hearing conferences as it deems necessary for the orderly conduct of any proceeding under these Rules.

(e) **Confidentiality**. All subpoena and discovery procedures shall be subject to the confidentiality requirements of Rule 611.

RULE 616. Costs of Fund Administration.

In addition to the payment of any Claims authorized by the Board pursuant to these Rules, the Board is authorized to pay from the Fund:

(a) The necessary expenses incurred for investigations and hearings conducted pursuant to these Rules; and

(b) Such costs as are necessary for the administration of the Fund.

SECTION VII
Fee Arbitration

RULE 700. Definitions.

As used in these Rules, the following terms have the following meanings, unless expressly otherwise provided, or as may result from necessary implications.

(a) **Board.** "Board" means the duly elected governing body of the Idaho State Bar.

(b) **Idaho State Bar**. "Idaho State Bar" means those employees or officers of the Idaho State Bar designated by the Executive Director to coordinate the fee arbitration program.

(c) **Panel**. "Panel" means the members of a fee arbitration panel in the judicial district where the dispute arose who have jurisdiction to resolve a fee dispute as provided in these Rules.

(d) **Party.** "Party" means each individual or entity who has executed a consent to a binding fee arbitration.

(e) **Petitioner.** "Petitioner" means a person or firm which files a request for binding fee arbitration.

(f) **Rules** or **These Rules**. "Rules" or "These Rules" means Rules 700 through 708 of the Bar Commission Rules.

(g) **State**. "State" means the State of Idaho.

(h) **Mediator.** "Mediator" means a person who attempts to resolve a fee dispute between a client and lawyer when the client has filed a petition for fee arbitration, through non-binding mediation.

RULE 701. Purpose; Effective Date

(a) **Purpose**. The purpose of these Rules is to provide an alternative means for the speedy, efficient, and fair resolution of fee disputes between attorneys maintaining offices in Idaho and their clients.

(b) **Effective Date.** These rules shall become effective on July 1, 1986. Any fee dispute submitted to a panel for determination prior to the effective date of these Rules shall be concluded under the procedure existing prior to the effective date of these Rules.

RULE 702. Arbitration Panels

(a) **Jurisdiction**. Each panel shall have jurisdiction over any disagreement concerning the fee paid, charged or claimed for legal services rendered by an attorney licensed to practice in this state, and where the matter has been submitted to the panel by the Idaho State Bar.

(1) The panel shall not have jurisdiction over:

(A) Disputes over which, in the first instance, a court has jurisdiction to fix the fee;

(B) Disputes over matters which, as a matter of law, are beyond the applicable statute of limitations;

(C) Disciplinary complaints.

(b) **Establishment and Membership of Panels.** Where required, each panel shall consist of three (3) members, two (2) of whom shall be members of the Idaho State Bar in good standing, and one (1) of whom shall be an adult Idaho citizen of good moral character and reputation who is not a lawyer. (Section (b) amended 3-1-88)

(c) **Officers**. The Idaho State Bar shall designate one (1) member of the panel as Chairman, who shall preside at the hearing provided in Rule 704.

(d) **Powers and Duties**. Each arbitration panel and each sole arbitrator shall have the following powers and duties:

(1) To exercise all powers relating to the conduct of the hearing, including ruling upon the admissibility or exclusion of evidence and procedural questions.

(2) To encourage the amicable resolution of fee disputes falling within its jurisdiction.

(3) To arbitrate and finally determine fee disputes in the event the parties have not amicably resolved the dispute.

(e) **Compensation and Expenses.** The mediators and members of the arbitration panels shall receive no compensation for their services but may be reimbursed for their travel and other expenses incidental to the performance of their duties under these Rules.

(f) **Conflict**. It shall be the obligation of any member so designated to serve as arbitrator to disclose to the panel chairman any reasons why he or she cannot ethically or conscientiously serve. In the event that a member declines or is unable to serve, the Idaho State Bar shall appoint another eligible person to the panel.

RULE 703. Processing Requests for Arbitration

(a) Proceedings before the panel shall be initiated by a written petition and an arbitration agreement, on a form approved by the Idaho State Bar, signed by the petitioner and filed with the Office of the Idaho State Bar, P. O. Box 895, Boise, ID 83701.

(b) Upon receipt of the petition and arbitration agreement, signed by the petitioner, the Idaho State Bar shall send a copy of the petitioner's allegations to all other parties to the attorney-client fee agreement, together with a request for their consent to binding arbitration. If a client refuses or fails to consent to arbitration within twenty-one (21) days of his or her receipt of an arbitration request, the matter will be deemed closed due to lack of agreement and both parties shall be notified. In all cases in which a client has filed a fee arbitration petition, even those where an attorney refuses or fails to be bound by arbitration within twenty-one (21) days of his or her receipt of an arbitration request,–a mediator shall be appointed by the Idaho State Bar who shall be a member of the Idaho State Bar in good standing to attempt to resolve the fee dispute through non-binding mediation.

(c) In cases where the attorney refuses or fails to be bound by arbitration, and mediation is unsuccessful, no further action shall be taken by the Idaho State Bar and the client and attorney shall be left to their respective civil remedies.

RULE 704. Arbitration

(a) The matter shall be assigned to a hearing panel composed of one (1) member if the amount in dispute is $2,500 or less and to a three-member panel for amounts in dispute over $2,500.

(b) The chairman of the panel, or the single arbitrator, assigned, as the case may be, shall fix a time and place for the hearing and shall cause written notice thereof to be served personally or by registered or certified mail on the parties to the arbitration, on the other panel members and the Idaho State Bar not less than seven (7) days before the hearing. A party's appearance at a scheduled hearing shall constitute a waiver on his or her part of any deficiency in respect to the giving of notice of the hearing.

(c) The single arbitrator or panel assigned shall hold a hearing within thirty (30) days after the receipt of the assignment, and shall render their award within fifteen (15) days after the close of the hearing. The award of the panel shall be made by a majority of the panel where heard by three members, or by the one (1) member of the panel who was designated as sole arbitrator, as provided herein.

(d) All parties shall have an absolute right to attend all hearings. The exclusion of other persons or witnesses waiting to be heard shall rest in the discretion of the arbitrators.

(e) The parties to the arbitration are entitled to be heard, to present evidence and to cross-examine witnesses appearing at the hearing. Any party to an arbitration has the right to be represented by an attorney at the hearing or at any stage of the arbitration. Any party may also have a hearing before a panel reported by a certified shorthand reporter, at his or her expense, by written request presented to the Idaho State Bar at least three (3) days prior to the date of the hearing. In the event of such request, any other party to the arbitration shall be entitled to acquire, at his or her own expense, a copy of the reporter's transcript of the testimony by arrangements made directly with the reporter. When no party to the arbitration requests that the hearing be reported, and the panel or sole arbitrator deems it necessary to have a hearing reported, the panel or sole arbitrator may employ a certified shorthand reporter for such purpose if authorized to do so by the Idaho State Bar. The written notice of the hearing sent to the parties shall advise them of these rights.

(f) Any or all portions of the fee arbitration hearing may be held by teleconference, in the discretion of the panel chairman.

(g) The arbitrators may request opening statements and may prescribe the order of proof. In any event, all parties shall be afforded full and equal opportunity for the presentation of any material evidence.

(h) The testimony of witnesses shall be given under oath or affirmation. Where so requested, the chairman of the panel shall administer oaths to witnesses testifying at the hearing.

(i) If either party to an arbitration, who has been duly notified, fails to appear at the hearing, the panel may hear and determine the controversy upon the evidence produced, not withstanding such failure to appear, and enter a decision.

(j) If all the parties to a controversy so agree, they may waive oral hearings and may submit their dispute in writing by providing the panel or sole arbitrator verified statements of position, together with exhibits, upon which a determination of the controversy may be rendered. However, the arbitrators may nevertheless, if they deem it desirable, require oral testimony of any party or witness, after due notice to all parties.

(k) Adjourned dates for the continuation of any hearings which cannot be completed on the first day shall be fixed for such times and places as the arbitrators may select with due regard to the circumstances of all the parties and the desirability of a speedy determination. Upon request of a party to the arbitration for good cause, or upon its own determination, the panel may postpone the hearing from time to time.

(l) If any member of a three (3) member panel dies or becomes unable to continue to act after the taking of testimony has begun, and before a decision has been made, the proceedings to that point shall be declared null and void and the matter assigned to a new panel for rehearing unless the parties, with the consent of the panel chairman, consent to proceed with the hearing with the remaining members of the panel.

(m) Before closing the hearing, the arbitrators shall specifically inquire of all participating parties whether they have further evidence to submit in whatever form. If the answer is negative, the hearing shall be closed and a motion to that effect made by the arbitrators as well as the date for submission of memoranda or briefs, if requested by the arbitrators.

(n) The hearing may be reopened by the arbitrators on their own motion or on application of a party at any time before the decision is signed and filed.

(Sections (l), (m) and (n) amended 2-13-92 - effective 7-1-92)

(o) In the event of the death or incompetency of a party to the arbitration proceeding, prior to the close of the hearing, the proceeding shall be abated without prejudice to either party to proceed in a court of proper jurisdiction to seek such relief as may be warranted. In the event of death or incompetency of a party after the close of the hearing but prior to a decision, the decision rendered shall be binding upon the heirs, administrators or executors of the deceased and on the estate or guardian of the incompetent.

RULE 705. The Decision

(a) The decision of the arbitrators shall be expressed in a written opinion signed by all of them; if there is a dissent, it shall be signed separately. Unless the submission or contract provides otherwise, the arbitrators may grant any remedy or relief they deem proper, including a direction for specific performance. A decision may also be entered on consent of all the parties. Once the decision is signed and filed, the hearing may not be reopened except upon consent of all parties.

(b) While it is not required that the decision be in any particular form, it should, in general, consist of a preliminary statement reciting the

jurisdictional facts (i.e. that the hearing was held upon notice pursuant to a written agreement to arbitrate, that the parties were given an opportunity to testify and to cross-examine, etc.), a brief statement of the dispute; the findings; and the terms of payment, if applicable. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy.

(c) The arbitrators may include in the decision a direction for payment of other expenses related to the proceedings but not for fees to the arbitrators or counsel.

(d) The original and two (2) copies of the decision shall be signed by the members of the panel concurring therein. The chairman of the district panel shall forward said decision, together with the entire file, to the Idaho State Bar, which shall thereupon, for and on behalf of said panel, serve a signed copy of the decision on each party to the arbitration, personally or by registered or certified mail, and notify the chairman of the Panel that the matter has been concluded.

RULE 706. Effect of the Decision.

(a) In any case in which all parties have agreed to be bound by the arbitration, any decision rendered shall be binding upon both parties to the extent provided by *Idaho Code* Sec. 7-901 et *seq*. and may be enforced by any court of competent jurisdiction.

(b) If the decision holds that the participating attorney or attorneys who consented to binding arbitration are not entitled to any portion of the disputed fee, service of a copy of such award on said attorney or attorneys shall:

(1) Terminate all claim and interest of the participating attorney or attorneys against the participating client or clients in respect to the subject matter of the arbitration;

(2) Terminate all right of such attorney or attorneys to retain possession of any documents, records or other properties of such client or clients pertaining to the subject matter of the arbitration then held under claim of attorney's lien or for other reasons.

(c) If the subject matter of an award in favor of an attorney or attorneys who have consented to binding arbitration involves pending litigation and a client or clients, for good reason, shall be unable to promptly pay in the full amount of any award rendered against him or her or them, application may be made to the court having jurisdiction for a determination of means deemed to adequately secure payment. If such a determination shall be made and the terms thereof be promptly fulfilled by the client or clients, such compliance shall entitle the client to the relief specified in subsection (b) of these Rules.

RULE 707. Confidentiality. With the exception of the decision itself, all records, documents, files, proceedings and hearings pertaining to arbitrations of any fee dispute under these rules shall not be opened to the public or any person not involved in the dispute except Bar Counsel or the Professional Conduct Board.

RULE 708. Additional Rules of Procedure.

(a) **Time Requirements**. Except as is otherwise provided in the Rules, the time in which any act or any thing is to be done or performed is not jurisdictional.

(b) **Disqualification**. Each party may challenge, without cause, and thereby disqualify, not more than one (1) member of the panel or challenge any member of the panel for cause within fourteen (14) days after notification of the assignment of the panel. Such challenges for cause shall be made upon the same grounds as provided in a civil action and must be made in writing.

(c) **Evidence**. The rules of evidence applicable in proceedings before the district courts of this state shall not be required in these proceedings.

SECTION VIII
Unauthorized Practice of Law

RULE 800. Purpose - Jurisdiction - Effective Date

(a) **Statement of Purpose**. The public interest requires that in securing professional advice and assistance upon matter affecting one's legal rights one should have assurance of the competence and integrity of his or her representative and should enjoy freedom of full disclosure under a recognized privilege of confidentiality. To protect this public interest it is deemed necessary to establish guidelines for the investigation of complaints, and the procedures to be followed to eliminate the unauthorized practice of law as provided by *Idaho Code* Secs. 3-401 and 3-420.

(b) **Jurisdiction**. Pursuant to the provisions of Article II, Section 1, of the Constitution of the State of Idaho, the Idaho Supreme Court has inherent jurisdiction to prohibit the unauthorized practice of law. Nothing contained herein is intended to limit the inherent authority of the Idaho Supreme Court or the authority of any other Idaho court to regulate the matters coming before it, including attempts to practice law by persons not licensed to practice law before said courts. All Idaho courts have inherent judicial powers to prohibit and to punish the unauthorized practice of law before them, and the Idaho State Bar encourages the use of such direct power to eliminate the unauthorized practice of law whenever necessary or appropriate.

(c) **Authority to Promulgate Rules.** Pursuant to the authority granted in *Idaho Code* Sec. 3-408, and subject to approval of the Idaho Supreme Court, the Board of Commissioners of the Idaho State Bar, as an official arm of the Supreme Court, hereby promulgates the following rules for the conduct of proceedings relating to the unauthorized practice of law.

(d) **Effective Date**. These rules shall become effective on July 1, 1986. Any formal proceeding then pending shall be concluded under the procedure existing prior to the effective date of these Rules.

RULE 801. Definitions. As used in these Rules, the following terms have the following meanings, unless expressly otherwise provided, or as may result from necessary implications.

(a) **Bar Counsel.** "Bar Counsel" means the general legal counsel for the Board of Commissioners of the Idaho State Bar.

(b) **Board or Board of Commissioners.** "Board" or Board of Commissioners means the duly elected governing body of the Idaho State Bar.

(c) **Complaint.** "Complaint" means a written statement which an individual or entity files in the office of Bar Counsel, alleging that a person or entity has engaged in the unauthorized practice of law.

(d) **Committee** or **Standing Committee**. "Committee" or "Standing Committee" means the Standing Committee on Unauthorized Practice of Law appointed by the Board of Commissioners.

(e) **Court or Supreme Court.** "Court" or "Supreme Court" means the Supreme Court of the State of Idaho.

(f) **Respondent**. "Respondent" means an individual alleged to have engaged in the unauthorized practice of law.
(g) **Rules** or **These Rules**. "Rules" or "These Rules" means Rules 800 through 809 of the Bar Commission Rules.
(h) **State**. "State" means the State of Idaho.
(i) **Unauthorized Practice of Law.** "Unauthorized Practice of Law (UPL)" means the practice of law without being duly qualified to do so, as prohibited by statute, court rule, or case law of the state.

RULE 802. Standing Committee on Unauthorized Practice of Law

(a) **Membership**. The Board of Commissioners shall appoint a three (3) member committee to be known as the "Standing Committee on Unauthorized Practice of Law of the Idaho State Bar" which shall be composed of members of the Idaho State Bar, in good standing appointed to staggered terms of three (3) years each.
(b) **Subsequent Terms**. Subsequent terms of all members shall be for three (3) years.
(c) **Officers**. The Board shall designate one (1) member of the Committee as Chairman and one (1) member as Vice-chairman. The chairman, and in his or her absence the vice-chairman, shall be responsible for calling and presiding over meetings of the Committee and for certifying to the Board all recommendations concerning matters which come before the Committee.
(d) **Quorum.** Two (2) members of the Committee shall constitute a quorum. All decisions of the Committee must be by majority vote of those present.
(e) **Duties and Powers**. The Standing Committee shall have the following powers, duties and responsibilities:
  (1) To receive complaints of unauthorized practice of law;
  (2) To refer complaints which appear to have merit to Bar Counsel for investigation and to supervise and direct such investigations by Bar Counsel;
  (3) To review the results of Bar Counsel investigations of allegations of unauthorized practice of law;
  (4) To cause cease and desist letters to be issued seeking voluntary compliance by a respondent with unauthorized practice of law statutes, rules or case law;
  (5) To make and submit reports and/or recommendations for the institution of judicial action to enjoin or punish the unauthorized practice of law to the Board of Commissioners.
  (6) To adopt additional rules of procedure subject to approval of the Board of Commissioners.
  (7) To cause subpoenas to be issued upon request of Bar Counsel to compel attendance and production of evidence necessary or convenient to the investigation of a complaint of the unauthorized practice of law.
(f) **Restrictions on Issuance of Subpoenas**. No subpoena shall be issued under this Rule unless a majority of the Committee shall determine, in writing, that probable cause exists to believe:
  (1) that a respondent is engaged in the unauthorized practice of law; and
  (2) the person to whom the subpoena is directed may have evidence relevant to the investigation of such matter. Each subpoena so issued shall indicate with specificity the documents sought to be produced and the matters on which the person to whom it is directed shall be asked to produce evidence. No such subpoena shall be issued in blank. A copy of each subpoena issued, together with the return thereon, shall be retained in Bar Counsel's investigative file.
(g) **Service of Subpoenas**. Subpoenas issued under this Rule shall be served pursuant to Rule 45(c)(2), Idaho Rules of Civil Procedure.
(h) **Failure to Comply with Subpoena**. Failure of any person subpoenaed in accordance with this Rule shall subject that person to all penalties and procedures provided by law, including but not limited to those specified in Idaho Code Section 3-414, Rule 45(f), Idaho Rules of Civil Procedure and Title 7 Chapter 6, Idaho Code. The district court of the judicial district in which attendance or production is required, upon the petition of Bar Counsel, shall enforce the attendance and testimony of any witness and the production of any documents so subpoenaed. Witness fees and mileage shall be paid in the same manner as in the district court.
(i) **Conflicts**. Members of the Standing Committee shall refrain from taking part in any proceedings in which a judge, similarly situated, would be required to abstain. If, in any given case, the number of Committee members who may properly render a decision falls below a quorum, the Board of Commissioners may appoint, for that case only, the number of *ad hoc* members necessary to restore the Standing Committee to full membership. Each *ad hoc* member shall fulfill all the responsibilities of the member whom he or she replaces.
(j) **Compensation and Expenses**. The members of the Standing 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 under these Rules.
(k) **Vacancies.** Vacancies during a term shall be filled by the Board of Commissioners for the remainder of the unexpired term.

RULE 803. District Committees

(a) ***Ad Hoc* District Committees.** The Board of Commissioners, on its own initiative or at the request of the Standing Committee, may appoint one or more *ad hoc* committees on unauthorized practice in one or more judicial districts, composed of such number of persons who shall serve for the terms, and shall have only the powers and duties, as may be set forth by the Board in the resolution creating and appointing such *ad hoc* committee. No such *ad hoc* committee, however, shall have or exercise any power given to the Standing Committee.
(b) **Other District Committees**. Nothing contained herein shall be construed to limit the power of a district bar association to establish a district committee having responsibility for monitoring and reporting on unauthorized practice of law within the district's geographical boundaries.

RULE 804. Bar Counsel. Bar Counsel shall have the following powers and duties with respect to matters involving allegations of unauthorized practice of law:
(a) To appoint such staff, and to incur such expenses as may be necessary to the performance of his or her duties, subject to budgetary considerations and to the approval of the Board of Commissioners.
(b) To advise the Standing Committee regularly of all complaints submitted to Bar Counsel involving the unauthorized practice of law for their consideration.
(c) To investigate complaints of unauthorized practice of law under the direction of the Standing Committee, in any way deemed necessary and proper by the Committee, and to report the results of such investigation to the Standing Committee on a regular basis.
(d) To issue cease and desist letters seeking voluntary compliance by a respondent with unauthorized practice of law statutes, rules or case law.
(e) To act as counsel for the Idaho State Bar in all judicial proceedings initiated by it involving allegations of unauthorized practice of law.
(f) To maintain permanent records of unauthorized practice of law matters and compile statistics to aid in the administration of the system.
(g) To perform all other duties and functions as may be required of him or her by the Standing Committee or the Board of

Commissioners with regard to the enforcement of unauthorized practice of law statutes, rules or case law.

RULE 805. Investigation and Preliminary Proceedings

(a) **Investigation**. All investigations shall be conducted by Bar Counsel under the authority and direction of the Standing Committee.

(b) **Action by Standing Committee**. The Standing Committee shall review each complaint of unauthorized practice and the report of any investigation by Bar Counsel and may, in its discretion, without Board approval:
   (1) close the matter without taking further action;
   (2) cause to be issued a cease and desist letter seeking voluntary compliance with unauthorized practice laws from the respondent;
   (3) refer the matter to the appropriate county prosecutor for action under *Idaho Code* § 3-420; or
   (4) recommend to the Board that the Idaho State Bar initiate judicial action against the respondent seeking such remedies as may be provided by law.

(c) **Board Action.** Upon receipt of the Standing Committee's recommendations, the Board shall review the matter and upon such review, the Board may:
   (1) Adopt, modify or reject the recommendations of the Standing Committee.
   (2) Remand the matter to the Standing Committee for further investigation.
   (3) Seek assurance of voluntary compliance.
   (4) Approve the initiation of any appropriate judicial action, whether civil or criminal, in any court of competent jurisdiction, to enforce the state's unauthorized practice statutes, rules and case law, including, for example, referring the matter to a county prosecutor for action under Idaho Code § 3-420.

RULE 806. Voluntary Compliance

(a) **Acceptance of Assurance of Voluntary Compliance.** The Board or Standing Committee may accept a written assurance of voluntary compliance that respondent will not continue the unauthorized practice of law, a copy of which shall be maintained in the permanent unauthorized practice files of Bar Counsel.

(b) **Effect of Giving Assurance of Voluntary Compliance.** The act by a respondent of giving assurance of voluntary compliance shall not be considered an admission of violation for any purpose. Any subsequent act by the respondent in violation of such assurance of voluntary compliance shall *prima facie* establish that the person subject thereto knows, or in the exercise of due care should know, that Idaho law prohibits the unauthorized practice of law by persons not licensed to do so in Idaho, that the Idaho State Bar has determined in the past that the respondent's activities were in violation of such laws, and that further action by the Idaho State Bar to stop such activities was halted based on respondent's assurance that he or she would no longer engage in the unauthorized practice of law, and that he or she has in the past violated, the law.

RULE 807. Judicial Proceedings. Civil judicial proceedings shall be initiated and prosecuted by Bar Counsel, after approval by the Board and under its direction, in accordance with the Rules of Civil Procedure applicable to the type of proceeding authorized by the Board. The Board shall have full authority in any such action to conduct such lawsuit, whether to seek enforcement of the state's unauthorized practice laws to their fullest extent or to compromise, settle or dismiss same, as it may in its discretion from time to time determine. Criminal judicial proceedings shall be referred to the appropriate county or state prosecutor, and the Bar's involvement therein shall be directed by the Board. The Board may also delegate its authority to direct the course of any such lawsuit to the Standing Committee or to Bar Counsel, as it may from time to time determine.

RULE 808. Immunity. Members of the Standing Committee, members of any *ad hoc* district committee, Bar Counsel, members of the Board of Commissioners, and members of their respective staffs shall be immune from civil suit and damages for any conduct or occurrence in the course of or arising out of performance of any official duties in connection with these Rules.

RULE 809. Confidentiality. The identity of all complainants, respondents and witnesses in cases involving allegations of the unauthorized practice of law shall be kept confidential until and unless:

(a) a complaint has been filed in the district court in the judicial district where the alleged unauthorized practice of law occurred; or

(b) the person has waived the right to confidentiality either by written waiver or by conduct.

SECTION IX
General Rules

RULE 900. Election of Commissioners - Assuming Office. There shall be an annual election of successors to any commissioner of the Board of Commissioners (hereinafter "Board") whose term shall expire on the last day of the annual meeting of the Idaho State Bar. Within the Northern, Western, and Eastern Divisions where each commissioner represents two district bar associations, the district bar associations shall alternate in electing a commissioner within their division, i.e., although all members within a division are eligible to vote, the commissioner elected shall reside or maintain an office in the opposite district of the commissioner whose term is expiring. The following procedures shall be followed for such elections:

(a) **Timing of Election.** The annual election shall be held on the first Tuesday in May of each year.

(b) **Notice of Election.** On the first Tuesday in March, the Executive Director shall give notice of the election and of the time for closing nominations to all members of the Idaho State Bar residing in, or maintaining an office from which they primarily practice law in, the division in which the term of office of commissioner shall expire.

(c) **Nomination**. A nomination for commissioner shall be in writing and shall require the concurrence of at least five (5) members of the Idaho State Bar in good standing and eligible to vote in that division. The nomination must be filed with the Executive Director by the close of the business day on the first Tuesday of April.

(d) **Ballots**. The Executive Director shall prepare an official ballot containing the names of all persons who have been nominated and send the ballot fifteen (15) days before the date of the election to

each member in good standing of the Idaho State Bar who is eligible to vote in the division from which the commissioner is to be elected.

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

(1) **Paper ballots.** Members voting by paper ballot shall mark the ballot and place it in a signed envelope. Paper ballots must be received by the Executive Director no later than 5:00 p.m. on the first Tuesday in May. Any ballots not enclosed in a signed envelope shall not be counted. All ballots shall be collected for canvassing by a board consisting of at least three (3) members in good standing of the Idaho State Bar, appointed by the President of the Board. The canvassing board shall remove the ballots from the envelopes, determine whether the person who signed the envelope is a member in good standing of the Idaho State Bar and eligible to vote in the district for which the election of a successor has been conducted, examine and count the ballots, and certify the election results.

(2) **Electronic voting.** Members voting electronically shall be provided a secure link to an online ballot, Electronic voting must be completed no later than 5:00 p.m. on the first Tuesday in May. Votes cast via electronic voting shall be verified and securely stored by the vendor.

(f) **Election Results.** The candidate receiving the greatest number of votes shall be declared the elected commissioner. The Executive Director shall immediately announce the results of the election.

(g) **Assuming Office**. The nominee declared elected shall assume office as commissioner of the Idaho State Bar on the last day of the annual meeting of the Idaho State Bar in the year of election.

(h) **Vacancy.** If a vacancy occurs on the Board prior to the next scheduled election, the officers of the district bar association of the district(s) the commissioner represented shall nominate up to two (2) candidates to the Board. The Board shall appoint the commissioner from the nominations submitted by the district bar association officers. The appointed commissioner shall serve out the term in accordance with Rule 901.

RULE 901. Officers - Term of Office - Powers and Duties.

(a) **Officers.**

(1) The officers of the Board shall consist of a President and President-elect, who shall be elected commissioners.

(2) Each commissioner shall serve as President during his or her term of office.

(b) **Term of Office.**

(1) At the first meeting of the Board after the election of any commissioner, officers shall be selected for the ensuing year.

(2) The term of such officers shall be for six (6) months or one (1) year and until their successors are duly selected.

(c) **Powers and Duties.**

(1) The President shall preside at meetings of the Board and at the annual meeting of the Idaho State Bar, and shall perform such other duties as may be prescribed by these rules.

(2) The President-elect shall perform the duties of the President in case of the latter's absence or disability, and may appoint committees for the annual meeting as provided in Rule 903(e).

RULE 902. Employees – Compensation.

(a) **Employees.** The Board may employ such additional assistants, including an Executive Director and Bar Counsel, as it deems advisable. Such employees shall perform the duties specifically set out in any of the rules of the Board, by statute, or as may be required by the Board.

(b) **Compensation.** The compensation of the Executive Director and Bar Counsel shall be determined by the Board.

RULE 903. Committees.

(a) **General Executive Committee**. The Board shall constitute the general executive committee of the Idaho State Bar.

(b) **Examination Committee**. Examinations of applicants for admission shall be conducted and papers graded under the direction of the Board. The grading of the bar examination shall be conducted in accordance with the *Bar Examination Grading Standards and Procedures* as approved by the Idaho Supreme Court, provided, it is the power and duty of the Board to consider and determine what recommendation shall be made regarding the admission or rejection of applicants.

(c) **Professional Conduct Committee**. The Board shall appoint, with the approval of the Idaho Supreme Court, a Professional Conduct Board as provided by Idaho Bar Commission Rule 502.

(d) **Unauthorized Practice of Law Committee**. The Board shall appoint a Standing Committee on Unauthorized Practice of Law as provided by Idaho Bar Commission Rule 802.

(e) **Annual Meeting Committee**. The President-elect of the Idaho State Bar shall have the power to appoint such committees on arrangements, programs and other matters connected with the annual meeting of the Idaho State Bar as he or she deems advisable.

(f) **Character and Fitness Committee**. The Board shall appoint a Character and Fitness Committee as provided by Idaho Bar Commission Rule 209.

(g) **Client Assistance Fund Committee**. The Board shall appoint a Client Assistance Fund Committee as provided by Idaho Bar Commission Rule 603.

(h) **Other Committees**. The Board may appoint such other committees as it deems advisable and define the duties of such committees.

RULE 904. Board Meetings.

(a) **Regular Meetings.** The Board shall hold meetings, the time and place of such meetings to be fixed by the Board or President, and provide appropriate notice to each commissioner, the members of the Idaho State Bar, and the public.

(b) **Special Meetings**. The Board may call such special meetings as it deems necessary and provide appropriate notice to each commissioner, the members of the Idaho State Bar, and the public.

RULE 905. Meetings of the Idaho State Bar.

(a) **Annual Meeting**. There shall be an annual meeting of the Idaho State Bar at such time and place as determined by the Board. At the annual meeting, the members present shall constitute a quorum, each member shall have one (1) vote, and questions shall be determined by a majority of the votes cast at the annual meeting.

(1) **Notice**. Notice of the time and place of the annual meeting shall be given by the Executive Director to each member of the Idaho State Bar at least fifteen (15) days prior thereto.

(b) **October Meeting**. In October of each year, at a time and place selected by the Board, there shall be a meeting of the Board and the delegates of each district bar association organized and existing as provided in Rule 907, for the purpose of presenting resolutions concerning the matters designated in Rule 906(a). The meeting shall be open to any member of the Idaho State Bar.

(c) **December Meeting**. In December of each year, at a time and place determined by the Board, there shall be a meeting of the Board and the delegates of each district bar association organized and existing as provided in Rule 907 for the purpose of adopting or rejecting resolutions on matters described by Rule 906(a). The meeting shall be open to all members of the Idaho State Bar.

RULE 906. Resolution Process.

(a) **Purpose and Matters to be Considered.** All matters relating to or affecting the statutes or laws of the State of Idaho, rules of court, the policies of the Idaho State Bar or the governance of the Idaho State Bar or of the district bar associations shall be determined by the members of the Idaho State Bar by direct secret ballot or through a vote of the district bar associations as provided in this rule, provided that matters relating to technical corrections, clarification or implementation of the Idaho Bar Commission Rules may be adopted by the Board and proposed to the Idaho Supreme Court.

(b) **Submission of Resolutions.** Resolutions may be submitted by the Board, district bar associations, sections or committees of the bar, or by any member of the Idaho State Bar. Resolutions shall be submitted in writing, with copies of any proposed legislation or rule changes attached, to the office of the Executive Director of the Idaho State Bar on or before September 25. Each resolution submitted shall be reviewed by the delegates to the October meeting so they may become familiar with the purpose of the resolution and report to the members of their district bar association.

(c) **Voting - Eligibility.** Each active, house counsel and judicial member of the Idaho State Bar shall be entitled to one (1) vote on each question presented.

(d) **Voting - Procedure.**

(1) **Ballots.** Following the October meeting, the Executive Director shall send a ballot to all eligible voters, listing all resolutions in "aye or nay" form, and including instructions for the return of ballots. Voters may return the ballots to the offices of the Idaho State Bar or cast them at their respective district bar association meeting. Questions shall be determined by the combined ayes and nays cast statewide.

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

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

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

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

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

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

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

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

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

(h) **Amendments to Circulated Resolutions.** Proposed amendments to circulated resolutions may be offered at any district bar association resolution meeting. Once an amendment is proposed at a district bar association resolution meeting, an advisory vote shall be taken at the meeting where the amendment was offered and shall be taken at any subsequent district bar association resolution meeting if the amendment is approved by the advisory vote at the resolution meeting where the amendment was offered. Proposed amendments shall be germane to the original resolution and shall not be contrary to or defeat the intent of the original resolution.

(i) **Circulation of Proposed Amendments**. Proposed amendments approved by an advisory vote of the members of at least one district bar association meeting shall be disseminated to the officers of the district bar associations prior to the December meeting.

(j) **December Meeting.** The December meeting shall be scheduled in accordance with Rule 905(c).

(1) **Delegates.** Each district bar association shall elect or appoint one (1) member of the district bar association as the delegate to the meeting who shall cast the vote of the district bar association on each resolution circulated and voted on by the members of that district bar association.

(2) **Vote.** The vote of each district bar association shall be cast according to the ayes and nays cast by the voting members of that district bar association.

(A) **Amendments to Circulated Resolutions**. Notwithstanding any other provisions of this Rule, each delegate shall have discretionary authority to also vote on any proposed amendments offered at one of the district bar association resolution meetings and approved by an advisory vote to said resolutions.

(k) **Referendum**. A resolution may provide whether a referendum of the membership shall be taken on any question and the form and

substance of the question to be presented, which question shall be framed so as to be capable of a "yes" or "no" answer.

(1) **Ballots - Canvassing**. The Executive Director shall prepare ballots within ten (10) days following the December meeting of the district bar association delegates and send one (1) ballot to each member of the Idaho State Bar. Ballots shall be returned to the Executive Director within fifteen (15) days after the date the ballot was sent to each member. Envelopes containing voted ballots shall be signed by the voting member. The Board shall constitute the canvassing committee for the referendum ballots. Canvassing shall be performed at the Board meeting following the closing of balloting and the Board shall declare the majority vote to be the opinion of the Idaho State Bar on said question and publish the same.

(l) **Time-Sensitive Decisions.** If the Idaho Supreme Court or Board determines that the decision of the Idaho State Bar members is needed on any time-sensitive question regarding a matter referenced in Rule 906(a), the Board may submit a question for vote to eligible voting members of the Idaho State Bar as defined in Rule 906(c), using the voting procedure set forth in Rule 906(d)(2).

RULE 907. District Bar Associations.

(a) As previously established by the Board, the State is divided into seven (7) district bar associations corresponding to the Idaho Judicial Districts as defined by Idaho Code Section 1-801 et seq.

(1) All active, inactive, emeritus, house counsel and judicial members of the Idaho State Bar, residing within or maintaining an office from which they primarily practice law within the state of Idaho within the territorial limits of each district association so organized, shall be members of such association. All active, house counsel and judicial members are entitled to vote at any meeting of their respective district bar association.

(b) Each district bar association shall adopt Uniform By-Law Provisions promulgated by the Idaho State Bar and file a copy of such duly adopted provisions with the Executive Director. Amendments to the Uniform By-Law Provisions may be adopted by the Board only with the concurrence of a majority of all officers of the district bar associations. Each district bar association may adopt additional rules, not inconsistent with the rules governing the Idaho State Bar, and file such additional rules with the Executive Director as herein provided.

(c) A district bar association may, by vote as provided by its by-laws, delegate to committees the power to act upon any matter of concern to that district bar association.

RULE 908. Records. The Executive Director shall have general charge of the records, files and property of the Board, keep minutes of the proceedings of the Board, and keep a complete, permanent file of all applications for admission to the Idaho State Bar and of all members of the Idaho State Bar.

RULE 909. Claims. The Board shall conduct the fiscal affairs of the Idaho State Bar in accordance with generally accepted accounting principles and shall have an annual audit of the financial reports as provided in *Idaho Code* Section 3-409. The Executive Director shall administer the day-to-day financial affairs of the Idaho State Bar subject to the general supervision of the Board and shall report on the financial status of the Idaho State Bar to the Board at each regular meeting of the Board.

SECTION X
Specialization

RULE 1001. Purpose, Administration and Effective Date

(a) The purpose of this section is to regulate the certification of lawyers as specialists by certifying agencies, so that public access to appropriate legal services may be enhanced.

(b) These Rules shall be administered by the Board of Commissioners ("Commissioners") of the Idaho State Bar, with such delegation to its staff as shall be deemed necessary.

(c) These rules shall be effective January 1, 1994.

RULE 1002. General Powers and Duties

(a) The Commissioners shall approve agencies which certify lawyers practicing in this state as specialists. The Idaho State Bar itself will not certify lawyers as specialists, though it reserves the power to engage in certification of specialists at some future time.

(b) In furtherance of the purpose of this section, the Commissioners shall have the following powers and duties:

(1) To list those fields of legal practice subject to specialty designation. The Commissioners may make these designations on its own motion or on petition of interested parties and on such criteria as it establishes.

(2) To approve appropriate agencies as qualified to certify lawyers as specialists in fields of law designated under subsection (1) above and to adopt standards which certifying agencies must meet.

(3) To adopt standards which must be met by certifying agencies in certifying lawyers as specialists.

(4) To review and evaluate the programs of certifying agencies to assure compliance with this specialization program.

(5) To deny, suspend, or revoke the approval of a certifying entity that has failed to comply with the standards established by this plan and the rules and standards established by the Commissioners.

(6) To keep appropriate records of those lawyers certified as specialists by agencies approved under this plan and to report to the Office of Bar Counsel any lawyers who may violate the provisions of this plan.

(7) To cooperate with other organizations, boards and agencies engaged in the field of lawyer specialization.

(8) To enlist the assistance of advisory committees to assist the Commissioners.

(9) To adopt rules, regulations, policies and standards reasonably needed to implement this plan and which are not inconsistent with any of the provisions of this plan.

RULE 1003. Standards for Approval of Certifying Agencies

(a) The persons in a certifying entity shall include lawyers who, in the judgment of the Commissioners, have extensive practice or involvement in the specialty field.

(b) A certifying entity's standards for certification of specialists must include, as a minimum, the standards required for certification set out in this plan and in the rules, regulations and standards adopted by the Commissioners from time to time. Such standards shall not discriminate against any lawyer properly qualified for certification as a specialist, but shall provide a reasonable basis for the determination that the lawyer possesses special competence in a particular field of law, as demonstrated by the following means:
   (1) The applicant must be licensed and currently in good standing to practice law in this state;
   (2) The applicant must demonstrate substantial involvement in the specialty field of practice during the three-year period immediately preceding application to the certifying entity. "Substantial involvement" shall be defined as to each specialty from a consideration of its nature, complexity and differences from other fields and from consideration of the kind and extent of effort and experience necessary to demonstrate competence in that area.
   (3) Peer recommendations from lawyers and/or judges in good standing and who are familiar with the competence of the lawyer, none of whom are related to, or engaged in legal practice with, the lawyer.
(c) The certifying entity shall be responsible for making appropriate investigations of peer recommendations and for obtaining any other data that may be required to assure the lawyer is in compliance with the legal certification program.
(d) The certifying entity shall register all lawyers whom it certifies as specialists pursuant to the plan and shall report to the Commissioners those lawyers who are certified.
(e) Each certifying entity shall annually submit to the Commissioners a report of its activities during the previous year, including a demonstration of the measures employed to ensure compliance with the provisions of these rules.
(f) The certifying entity shall cooperate at all times with the Commissioners and perform such other duties as may be required by the Commissioners so that the plan is properly administered.

RULE 1004. Minimum Standards for Continued Recognition of Specialists

(a) For a lawyer to claim to be a certified specialist, the lawyer must be duly licensed on active status and in good standing to practice law in this state throughout the period of which specialty designation is granted and comply with the other requirements of this rule.
(b) The lawyer must be certified by an entity approved by the Commissioners.
(c) The lawyer must comply with the CLE requirements set forth in IBCR 402 (a).
(d) The period of recognition as a specialist shall be for no longer than five years. During this period the Commissioners or appropriate certifying entity may require evidence from the specialist of his or her continued qualification for recognition as a specialist.
(e) Application for and approval of continued recognition as a specialist shall be required prior to the end of each certification period. To qualify for continued recognition as a specialist, a lawyer applicant must pay the required fee and meet the requirements for certification renewal established by these Rules or such other Rules as may be adopted by the Commissioners.

RULE 1005. Privileges Conferred and Limitations Imposed

(a) A lawyer certified as a specialist as provided by these Rules may communicate that fact, but must clearly identify the particular certifying entity that recognizes the lawyer as a specialist. The lawyer shall not represent, either expressly or implied, that his or her specialty status is recognized by any entity other than the certifying entity. Specifically, certification shall not entitle the lawyer to suggest that he or she is certified by the Idaho State Bar.
(b) Nothing in this plan shall in any way limit the right of a certified specialist to practice in other law fields, even if the lawyer is not recognized as a specialist in those other fields.
(c) No lawyer shall be required to be recognized as a specialist in order to practice in the field of law covered by that specialty. Any lawyer shall have the right to practice in any field of law, even though he or she is not recognized as a specialist in that field. Participation in this plan shall be on a voluntary basis.
(d) A lawyer may be recognized as a specialist in more than one field of law.

RULE 1006. Fees. To defray expenses of the Idaho State Bar specialization process, the Commissioners may establish and collect reasonable fees from certifying agencies and from lawyers qualifying as specialists under these Rules.

RULE 1007. Review of Adverse Decision

(a) Any certifying entity or individual adversely affected by a decision of the Commissioners may contest the decision by filing a written request for reconsideration with the Commissioners no more than 21 days after delivery of the decision. A written request for reconsideration shall be delivered to the Executive Director of the Idaho State Bar.
(b) The Commissioners shall consider any request for reconsideration at its next regularly-scheduled Bar Commission meeting. The Commissioners may require the attendance of witnesses in the consideration of such an appeal, including the appellant. Thereafter, the Commission shall issue written findings of fact and conclusions of law, which shall:
   (1) Affirm its previous decision;
   (2) Reverse its previous decision; or
   (3) Require further investigation of the matter.
(c) Any certifying entity or individual adversely affected after a request for reconsideration may request review in the Idaho Supreme Court by filing an objection no later than 21 days after delivery of the adverse decision on the request for reconsideration.
(d) Said objection shall be reviewable by the Supreme Court only if it is alleged that through the arbitrary and capricious action of the Commissioners, or that by reason of a substantial failure to comply with the provisions of these rules, an entity or individual was denied approval.
(e) Nothing in these rules shall be read to provide for the authority or power of the Commissioners to require a certifying entity to certify an individual lawyer.

RULE 1008. Suspension or Revocation of Recognition as a Specialist

(a) The Commissioners may require a lawyer to cease holding themselves out as a specialist if the field of practice is no longer subject to specialty recognition, or if:
   (1) The certifying entity no longer recognizes the lawyer as a specialist; or
   (2) The certifying entity is no longer approved as a certifying agency under these rules; or
   (3) The recognition of the lawyer as a specialist was made contrary to these rules; or
   (4) The lawyer recognized as a specialist made a false representation, omission or misstatement of material fact to the Idaho State Bar or any certifying entity; or

(5) The lawyer recognized as a specialist has failed to abide by all rules and regulations promulgated by the Commissioners; or
(6) The lawyer recognized as a specialist has failed to pay any fees required by the Idaho State Bar; or
(7) The lawyer recognized as a specialist no longer meets the standards established for the recognition of specialists; or
(8) The lawyer recognized as a specialist has been suspended or disbarred from practice by the Supreme Court or any other state or federal court or entity.

(b) The lawyer recognized as a specialist has a duty to inform the Idaho State Bar promptly of any fact or circumstance described in Section (1) through (7), above.

SECTION XI
Practice Sections

RULE 1100. Purpose. The continuing education and professional development of Idaho lawyers are greatly enhanced by the formation and advancement of practice sections in specific areas or aspects of the practice of law. The following Rules are established in order to define the role of practice sections within the Idaho State Bar and to provide for their orderly administration. Mindful of the limitations placed on integrated bars, sections are not intended to advance political or ideological points of view.

RULE 1101. Definitions. As used in these Rules, the following terms have the following meanings, unless expressly otherwise provided, or as may result from necessary implication.

(a) **Bar Member**. "Bar Member" means any judge, or any person currently admitted to practice before the Idaho Supreme Court.
(b) **Commission; Commissioners**. "Commission" or "Commissioners" means the Idaho Bar Commission, as established by section 3-402, *Idaho Code*, and as otherwise provided for by these Rules.
(c) **Executive Director**. "Executive Director" means the executive officer of the Idaho State Bar, employed by the Commissioners for that purpose.

RULE 1102. Formation.

(a) **Petition**. Those seeking to form a new practice section shall secure the signatures of not less than twenty-five (25) bar members, on a form prescribed by the Commissioners.
(b) **Statement of Purpose; Practice Section Title**. A petition seeking formation of a new practice section shall include a statement of purpose and a proposed title for that practice section. The statement of purpose and title shall reflect the particularized field(s) or aspect(s) of the practice law in which the practice section intends to concentrate. Practice sections will not be authorized if it appears that their purpose is to promote a particular political or ideological point of view.
(c) **Action by Commissioners**. Upon receipt of a petition for formation of a practice section, the Commissioners shall review the petition for conformance with these Rules. Thereafter, the Commissioners shall:
  (1) Approve formation of the practice section under such terms and conditions as it may deem necessary for conformance with these Rules; or
  (2) Return the petition to its originators, noting any changes needed in order to bring the petition in conformance with these Rules; or
  (3) Reject the petition as being not in conformance with these Rules or as otherwise duplicative of an existing practice section.
(d) **Organizational Meeting; Officers; By-Laws**. Upon its approval, a practice section shall conduct an organizational meeting, after appropriate notice is published in *The Advocate* or sent by electronic communication from the Bar to Bar Members. At the organizational meeting, the practice section shall elect officers to serve until the time set for annual election of officers. The practice section shall also adopt by-laws, in the form generally prescribed for that purpose by the Commissioners. The by-laws shall become effective upon approval by the Commissioners. Specific Commissioner approval shall be necessary for material modifications to the uniform by-laws.
(e) **Amendments to By-Laws**. All amendments to a practice section's by-laws shall require the prior approval of the Commissioners.

RULE 1103. Membership

(a) **Universal Eligibility**. Membership in any practice section shall be open to any bar member, without limitation, except that the Young Lawyers' Section may permissibly restrict its membership according to age and/or years-in-practice.
(b) **Other Members**. Practice sections may authorize memberships by persons other than bar members, on terms and conditions to be set forth in its by-laws.

RULE 1104. Meetings

(a) **Annual Meeting**. Each practice section shall hold an annual membership meeting. At the annual membership meeting, each practice section shall deliver an annual report of its activities for the preceding year. Each practice section shall also deliver an annual report at the Idaho State Bar Annual Meeting. The annual report of the practice section shall also be submitted to the Executive Director.
(b) **Election of Officers**. Unless its by-laws specifically provide otherwise, each practice section shall conduct its annual election of officers and directors in conjunction with the annual membership meeting.
(c) **Other Meetings.** A practice section may conduct such other meetings as may be appropriate, consistent with its by-laws and the giving of proper notice.

RULE 1105. Finance

(a) **Annual Dues**. Practice sections shall primarily be funded by annual section dues, to be collected by the Executive Director in the course of annual State Bar licensing. The amount of such dues shall be established in accordance with the practice section's by-laws.
(b) **Section Funds**. All funds of practice sections shall be funds of the Idaho State Bar, to be administered for practice section purposes.
(c) **Additional Revenues**. Practice sections shall be permitted to generate additional revenues in any manner consistent with these Rules
(d) **Fiscal Year; Budget**. The fiscal year of practice sections shall be January 1 - December 31. Each practice section shall submit a proposed budget on the form prescribed for that purpose to Executive Director not later than December 1.

(e) **Expenditures.** Practice section funds shall be maintained in an account established for that purpose by the Executive Director. All expenses claimed against such funds shall be submitted to the Executive Director, who shall promptly pay all appropriate expenses. Practice sections shall abide by the expense policy approved by the Commissioners concerning travel, meals, mileage and other expenses. Any dispute between the governing board of a practice section and the Executive Director concerning the payment of claimed practice section expenses shall be submitted to the Commissioners, whose decision shall be final.

(f) **Accounting**. An accounting and audit of practice section funds shall be conducted on at least an annual basis, as part of the State Bar annual audit. Any bar member shall be entitled to review the finances of a practice section, upon reasonable request made to the Executive Director.

(g) **Administrative Fee**. The Idaho State Bar shall annually assess an administrative fee to each practice section, in a formula to be approved by the Commissioners.

RULE 1106. Legislative/Political Activity

(a) **Generally**. The Idaho State Bar is an integrated bar, and as such is limited in its ability to engage in legislative and political activity. The appropriate avenue for engaging in that limited legislative/political activity is set forth in Rule 906(a). Any practice section seeking to engage in the promotion of legislation or any other political position must first comply with Rule 906(a).

(b) **Administration of Justice**. Section 3-418, *Idaho Code*, provides that the Idaho State Bar may from time-to-time provide expertise to the Governor, Legislature and/or Supreme Court on matters affecting the administration of justice. A practice section may properly engage in this type of technical assistance to the Legislature or other agencies of government, but must first advise the Commissioners of its intention to do so.

(c) **Notice to Commissioners**. A practice section shall first notify the Commissioners, through the Executive Director, of any intended legislative/political activity to be conducted.

RULE 1107. Practice Section Council

(a) **Purpose**. The Practice Section Council ("Council") shall exist to address the continued development of practice sections within the Idaho State Bar, and to recommend policy considerations to the Commissioners.

(b) **Membership**. Each practice section shall be permitted to designate a representative to attend and vote at any meeting of the Council. The Commissioners shall designate one or more of its members to attend Council meetings as a nonvoting member.

(c) **Officers; Committees**. The Council may elect such officers and form such committees as it deems necessary.

(d) **Meetings**. The Council shall meet annually at the State Bar Annual Meeting, and at such other times as deemed appropriate, for the purpose of considering issues common to practice sections. The Council shall consider whether to propose resolutions for inclusion on the annual State Bar resolution process. The Council may designate representatives from time-to-time to attend Bar Commission meetings.

RULE 1108. Continuing Legal Education

(a) **Continuing Legal Education**. Practice sections are encouraged to engage in the planning and presentation of continuing legal education programs, subject to the considerations set forth in subsection (b) below.

(b) Practice sections shall abide by and be subject to agreements entered into between the Commissioners (on behalf of the Idaho State Bar) and other organizations, including but not limited to the Idaho Law Foundation, Inc., concerning the planning, implementation and financial considerations of continuing legal education programs.

RULE 1109. Abolition of Practice Section

(a) **Annual Review; Abolition**. The activity of each practice section shall be reviewed by the Commissioners annually within sixty (60) days of the Annual Meeting, and, in the event the Commissioners determine that a practice section is no longer active or for any other reason is no longer deemed necessary or useful to the Bar, then such practice section may be abolished by the Commissioners.

(b) **Minimum Membership**. Two years after the formation of a practice section, it is expected that minimum membership should be maintained of at least fifty (50). Membership of less than fifty (50) members will create a presumption that the practice section is inactive, although the presumption may be overcome upon a showing by the practice section's officers. A possible solution to a low practice section membership level may be merger into another existing practice section.

(c) **Practice Section Funds**. In the event that a practice section is abolished, any remaining funds of that practice section shall revert to the general fund of the Idaho State Bar.

RULE 1110. Miscellaneous

(a) **Surveys**. No survey or similar research of bar members shall be conducted by a practice section without prior coordination with the Executive Director. This coordination is intended to prevent multiplicity and overlap of such surveys.

(b) **Copyrights**. The Idaho State Bar shall own the copyright to all materials produced by its practice sections.

(c) **Removal of Officers**. The Commissioners may, for good cause shown, remove and replace any or all officers of a practice section. Such action shall be taken only if, in the Commission's judgment, the continued participation of the officer(s) in question threaten to place the Idaho State Bar or the practice section in violation of these Rules, or of state or federal law, or if continued participation of the officer(s) poses a threat of irreparable harm to the Idaho State Bar or the practice section.

(d) **Open Meetings**. Meetings of practice sections shall be governed by Idaho's open public meetings law, section 67-2341, *Idaho Code*, et. seq.

SECTION XII
Lawyer Assistance Program

RULE 1200. Definitions. As used in these Rules, the following terms have the following meanings, unless expressly otherwise provided, or as may result from necessary implications.

(a) Board or Board of Commissioners. "Board" or Board of Commissioners means the duly elected governing body of the Idaho State Bar.

(b) Committee or LAP Committee. "Committee" or "LAP Committee" means the Lawyer Assistance Program Committee, as

appointed by the Board of Commissioners to oversee the Lawyer Assistance Program.

(c) Executive Director. "Executive Director" means the chief administrative officer of the Idaho State Bar.

(d) Lawyer Assistance Program or LAP Program. "Lawyer Assistance Program" or "LAP Program" means the program established to pursue the objectives set forth in Rule 1201 of these Rules.

(e) Rules or These Rules. "Rules" or "These Rules" means Rules 1200 through 1206 of the Idaho Bar Commission Rules.

RULE 1201. Purpose.

(a) **Purpose**. Impairment of a lawyer's performance may result from physical, mental or emotional illness, including addiction. The purposes of the LAP Program are as follows:

(1) protect the interests of clients from harm caused by impaired lawyers;

(2) educate the bench, bar and community to the causes of and remedies for lawyer impairment;

(3) develop and administer resources to assist lawyers and judges in securing treatment for addictive diseases and mental health issues, including but not limited to alcoholism and chemical dependency, by providing a system which encourages early entry of the impaired attorney, while recognizing the necessity for absolute confidentiality and trust;

(4) provide assistance to impaired lawyers in a manner that is separate and distinct from attorney discipline proceedings and to maintain that distinction.

RULE 1202. Lawyer Assistance Program Committee

(a) Members. The Board of Commissioners shall appoint a Lawyer Assistance Program Committee to oversee the LAP. The Commissioners shall appoint a Chair annually with input from the LAP Committee.

(b) Composition. The Committee shall consist of no more than twenty-five members, with consideration given to geographic representation. The members shall have diverse experience, knowledge and demonstrated competence in the problems of addiction and other common difficulties that impair lawyers. Non-lawyers are eligible to be appointed as members of the LAP Committee.

(c) Terms. Committee members shall be appointed for a three-year term. Appointments shall be on a staggered basis, so that the number of terms expiring shall be approximately the same each year.

(d) Duties. The Committee shall have the following duties:

(1) Exercise general oversight responsibility to ensure that the program achieves its purposes and goals.

(2) As needed, recommend LAP rules, procedures and policies to the Board of Commissioners for its approval and/or submission to the Idaho Supreme Court.

(3) Carry out the duties listed under Rule 1203, in the absence of a Coordinator of the program.

(e) Meetings. The Committee generally shall meet on a quarterly basis or upon call of the chair with adequate notice to all members. The actions of the Committee are governed by these rules and procedures, the Idaho Bar Commission Rules and the Idaho Rules of Professional Conduct.

(f) Quorum. There shall be no quorum requirement for the transaction of LAP Committee business, provided that proper notice of the meeting is given.

RULE 1203. Program Coordinator.

(a) Appointment of Program Coordinator. With the approval of the Board of Commissioners, the Executive Director may hire a Program Coordinator, with input from the LAP Committee.

(b) Qualifications. The Program Coordinator should be either a person with experience in recovery or a qualified mental health professional with addiction treatment experience. The Program Coordinator shall have sufficient experience and training to enable him/her to identify and assist impaired lawyers.

(c) Responsibilities. The Program Coordinator's job responsibilities shall as determined by the Executive Director, in consultation with the LAP Committee and the Board of Commissioners.

RULE 1204. Eligibility; Scope of Program.

Subject to available resources, the LAP Program is available to provide assistance to lawyers and judges for the following problems:

(a) Addictive diseases and mental health issues, including but not limited to alcoholism and chemical dependency.

(b) Co-dependency and interpersonal relationship problems arising from addiction related or other dysfunctions.

RULE 1205. Confidentiality and Immunity; Records.

(a) **Confidentiality/Records**. All records of the LAP Program shall be confidential. The LAP shall not maintain permanent records relating to the names of the participants or the nature of their participation. Each person who is the subject of any form of inquiry under these Rules shall be assigned a number, which shall thereafter be used in any subsequent action taken by the LAP Committee, the LAP Program or the Program Coordinator.

(b) **Immunity.**

(1) **Absolute**. Such appointee or appointees shall be immune from civil liability for acts and omissions in the performance of duties under this Rule, except for demonstrated fraudulent or malicious conduct, so long as he or she or they are acting:

(A) Pursuant to any order made under or pursuant to these Rules; or

(B) Pursuant to any like or similar order directing or providing for legal assistance to clients or of persons adversely affected by the lawyer; or

(C) Pursuant to this particular Rule or any similar request or direction by the Idaho State Bar of an appointed or acting lawyer to so act in the public interest or for the protection of any member of the public.

(2) **No Immunity**. The provisions of this Rule shall not, however, provide immunity to any lawyer, whether or not appointed and whether or not originally concerned with the matter by reason of any appointment, order or relationship of the kinds enumerated above, if it be legal work which he or she has agreed to do for a fee which has been privately negotiated with, and agreed to by, the client.

(3) **Qualified Immunity**. Notwithstanding the provisions of subsection (2) of this Rule, to the extent that a lawyer provides services under this Rule, which work or services reasonably and equitably justifies the charging or reserving of a fee for legal services, qualified immunity shall apply even though such fee be fixed and charged if the same is pursuant to the appointing or authorizing authority or the Supreme Court and is not pursuant to a negotiated private fee arrangement with such client.

(A) **Fees Allowed by Court.** This Rule shall not be construed to limit or preclude the Supreme Court or appointing authority from allowing reasonable fees in proper cases for work done pursuant to any directive, order or authorization in keeping with these Rules, which fees may be accepted without waiver of or

prejudice to the qualified immunity herein above provided so long as the fees are not privately negotiated.

(c) **Referrals.** Any attorney member of the Idaho State Bar may contact the LAP seeking assistance or may be referred by any other source.

(d) **Location of Facility.** The LAP office should be located outside the Idaho State Bar office and maintain an "800" confidential hotline number. Only the LAP staff should have access to receiving calls on the "800" hotline number.

RULE 1206. Miscellaneous.

(a) Finance. All funds of the Lawyer Assistance Program shall be funds of the Idaho State Bar. The LAP program funding shall be determined each year dependent on available resources.

(b) Compensation and Expenses. The members of the LAP 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 under these Rules. All expenses claimed shall be submitted to the Executive Director, who shall promptly pay all appropriate expenses. Committee members shall abide by the expense policy approved by the Commissioners concerning travel, meals, mileage and other expenses.

SECTION XIII
Trust Accounts

RULE 1301. Definitions.

As used in these Rules, the following terms have the meanings set forth below:

(a) **Allowable reasonable service charges or fees.** Per check charges, per deposit charges, a fee in lieu of minimum balance, sweep fees, federal deposit insurance fees and a reasonable IOLTA trust account administrative fee.
(b) **Bar.** The Idaho State Bar.
(c) **Bar Counsel**. Legal counsel for the Board.
(d) **Board**. The Idaho State Bar Board of Commissioners, the duly elected governing body of the Bar.
(e) **Executive Director**. The chief administrative officer of the Bar.
(f) **Financial institution**. A bank, savings and loan association, credit union, savings bank or other entity that is authorized by federal or state law to do business in Idaho and accepts for deposit funds in trust accounts.
(g) **Foundation.** The Idaho Law Foundation.
(h) **I.B.C.R.** Idaho Bar Commission Rules.
(i) **Interest on Lawyer Trust Account or IOLTA account.** An interest or dividend-bearing trust account for client and third party funds as set forth in Rule 1304.
(j) **I.R.P.C.** Idaho Rules of Professional Conduct.
(k) **Lawyer.** A lawyer who is currently an Active, Inactive, Emeritus, Judicial, Senior or House Counsel Member of the Bar.
(l) **Notice of dishonor**. The notice that Idaho law requires a financial institution to give upon presentation of an instrument that the institution dishonors.
(m) **Rules**. Section XIII of the I.B.C.R.
(n) **State**. State of Idaho.
(o) **Supreme Court**. The Supreme Court of the State of Idaho.
(p) **Trust account**. An account established by a lawyer to hold the property of clients and third persons for safekeeping.

RULE 1302. Consent and Information.

(a) As a condition of licensing, lawyers shall be deemed to have consented to the trust account requirements mandated by these Rules.
(b) Each licensing year, lawyers shall submit, on a form provided by the Bar, information required by these Rules specifying trust accounts information or certifying that the lawyer is exempt from trust account requirements under Rule 1303 and, if applicable, IOLTA account requirements under Rule 1304.
(c) Lawyers shall, on a form provided by the Bar, provide written notification of any changes regarding the lawyer's trust accounts information, including the opening or closing of any trust account, within thirty (30) days of such change.

RULE 1303. Establishment of Trust Accounts.

(a) Except as otherwise provided in subsection (b), lawyers shall, in accordance with these Rules and I.R.P.C. 1.15, establish and maintain a trust account in a financial institution approved by the Bar under Rule 1306.
(b) A lawyer is exempt from the requirement of establishing and maintaining a trust account under this Rule if the lawyer certifies, on a form provided by the Bar, that the lawyer:
  (1) does not handle any funds or property of clients or third persons; or
  (2) does not have an office within Idaho.
(c) Trust accounts shall be clearly identified as "trust" or "escrow" accounts.
(d) Funds deposited in trust accounts must be insured by an agency of the federal government.

RULE 1304. Establishment of IOLTA Accounts.

(a) Except as otherwise provided in subsections (b) and (d), a lawyer required to maintain a trust account under Rule 1303 shall create and maintain an IOLTA account for deposit of all client and third person funds.
(b) When client or third person funds can earn net income for the client or third person in excess of the costs to secure such income, a lawyer may establish a non-IOLTA account subject to Rule 1303 and I.R.P.C. 1.15.
(c) In determining whether a client or third person's funds can earn net income in excess of the costs of securing that income for the benefit of the client or third person, the lawyer shall consider the following factors:
  (1) the amount of funds to be deposited;
  (2) the expected duration of the deposit, including the likelihood of delay in the matter for which funds are held;
  (3) the rates of interest or yield at financial institutions where the funds are to be deposited;
  (4) the costs of establishing and administering non-IOLTA accounts for the benefit of the client or third person, including service charges and fees, the related costs of the lawyer's services and the costs of preparing any tax reports required for income accruing to the client's or third person's benefit;
  (5) the capability of the lawyer or financial institution to calculate and pay income to individual clients or third persons; and
  (6) any other circumstances that may affect the ability of the client's or third person's funds to earn net income.
(d) A lawyer who is otherwise required to maintain a trust account under Rule 1303 may be exempt from the requirement to maintain an IOLTA account if the lawyer:
  (1) has been exempted by an order of general or special application of the Bar; or
  (2) obtains a written exemption from the Bar upon filing a petition, on a form provided by the Bar, stating that compliance with this Rule would create an undue hardship on the lawyer and would be extremely impractical, based on geographic distance between the lawyer's principal office and the closest financial institution participating in the IOLTA program.

RULE 1305. Maintenance of IOLTA Accounts.

(a) A lawyer required to create and maintain an IOLTA account under Rule 1304 shall:
  (1) place in the IOLTA account all client or third party funds which cannot earn net income for the client or third person in excess of the costs of securing that income;
  (2) direct the financial institution where the IOLTA account is maintained to:
    (A) remit all interest or dividends, net of any allowable reasonable service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with the financial institution's standard practice, at least quarterly, solely to the Foundation. When feasible, the financial institution shall remit the interest or dividends on all of its IOLTA accounts in a lump sum, however, the financial institution must provide, for each individual IOLTA account, information to the Foundation as required by subsections (B) and (C);

(B) report in a form and through any manner of transmission approved by the Foundation showing the name of the lawyer and the amount of the remittance attributable to each, the account number for each account, the rate and type of interest or dividend applied, the amount and type of allowable reasonable service charges or fees deducted, the average account balance for the reporting period and such other information as is reasonably required by the Foundation;

(C) report to the lawyer in accordance with the financial institution's normal procedures for reporting to depositors; and

(D) ensure that allowable reasonable service charges or fees in excess of the interest earned on the account for any period are not taken from interest earned on other IOLTA accounts or any principal balance of the accounts;

(3) ensure that earnings from an IOLTA account are not made available to the lawyer; and

(4) review the IOLTA account at reasonable intervals to determine whether changed circumstances require further action with respect to the funds of clients or third persons.

RULE 1306. Eligible IOLTA Financial Institutions.

(a) Lawyers may maintain IOLTA accounts only in eligible financial institutions approved by the Bar.

(b) Eligible financial institutions are those that voluntarily offer IOLTA accounts and meet the requirements of this Rule, including maintaining IOLTA accounts which pay the highest interest rate or dividend generally available from the institution to its non-IOLTA account customers when the IOLTA account meets or exceeds the same minimum balance or other account eligibility qualifications, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA accounts, eligible financial institutions may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers, provided those factors do not include that the account is an IOLTA account.

(c) An eligible financial institution may satisfy the comparability requirements of subsection (b) by electing one of the following options:

(1) establish the IOLTA account as the comparable rate product;

(2) pay the comparable rate on the IOLTA account in lieu of actually establishing the comparable rate or dividend product; or

(3) pay a rate equal to the greater of 70%, or such other rate as may be recommended by the Foundation, of the Federal Fund Target Rate as of the first business day of the IOLTA account earnings period, which rate is deemed to be net of allowable reasonable service charges or fees, on an IOLTA account.

(d) IOLTA accounts may be established as:

(1) a business checking account with an automated investment feature, such as an overnight investment in repurchase agreements or money market funds invested solely in or fully collateralized by United States government securities, including United States Treasury obligations and obligations issued or guaranteed as to principal and interest by the United States or any agency or instrument thereof;

(2) a checking account paying preferred interest rates, such as money market or indexed rates;

(3) a government interest-bearing checking account such as accounts used for municipal deposits;

(4) an interest-bearing checking account such as a negotiable order of withdrawal (NOW) account, or business checking account with interest; or

(5) any other suitable interest-bearing deposit account offered by the financial institution to its non-IOLTA account customers, provided:

(A) A daily financial institution repurchase agreement shall be fully collateralized by United States government securities and may be established only with an eligible institution that is “well capitalized” or “adequately capitalized” as those terms are defined by applicable federal statutes and regulations. An open-end money-market fund shall be invested solely in United States government securities or repurchase agreements fully collateralized by United States government securities, shall hold itself out as a "money-market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars ($250,000,000).

(e) Nothing in these Rules precludes a financial institution from paying a higher interest rate or dividend than described above or electing to waive any service charges or fees on IOLTA accounts.

(f) Interest and dividends shall be calculated in accordance with the financial institution's standard practice for non-IOLTA account customers.

(g) Allowable reasonable service charges or fees may be deducted from interest or dividends on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA account customers. No fees or service charges other than allowable reasonable service charges or fees may be assessed against the accrued interest or dividends on an IOLTA account. Any fees and service charges other than allowable reasonable service charges or fees shall be the sole responsibility of, and may be charged to, the lawyer maintaining the IOLTA account.

RULE 1307. Bar Approval of Financial Institutions - Notification.

(a) Financial institutions, to be eligible to act as depositories for trust accounts, must be approved by the Bar. Lawyers shall not maintain a trust account in a financial institution that is not approved by the Bar pursuant to these Rules.

(b) To obtain Bar approval as a depository for trust accounts, a financial institution shall file with the Bar a notification agreement in a form provided by the Bar that requires the financial institution to report to Bar Counsel if any properly payable instrument is presented against a trust account containing funds insufficient to honor the instrument in full, irrespective of whether the instrument is honored. For purposes of this subsection, “properly payable” refers to an instrument that would require payment under Idaho law if presented in the normal course of business.

(c) Notification to Bar Counsel by the financial institution shall be provided in the following form:

(1) For a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor; or

(2) For instruments that are presented against insufficient funds but which are honored, the report shall identify the financial institution, the lawyer, the account number, the date of presentation for payment, the date of payment and the overdraft amount.

(d) Reports by financial institutions to Bar Counsel shall be made simultaneously with, and within the time provided by law for notice of dishonor, if any. If an instrument presented against

insufficient funds is honored, the report shall be made within five (5) banking days of the date of presentation for payment.

(e) The notification agreement of a financial institution shall apply to all branches of the financial institution and shall not be canceled except upon thirty (30) days' written notice to the Bar.

(f) The Supreme Court may establish additional rules governing approval and termination of approved status for financial institutions.

(g) The Bar shall publish a list of approved financial institutions on its website and provide a copy of that list upon request.

(h) Nothing in this Rule precludes a financial institution from charging a lawyer for the reasonable cost of producing reports or other records required by this Rule.

(i) Disclosures made pursuant to these Rules shall be confidential except as may otherwise be provided in formal charge proceedings under I.B.C.R. 521.

RULE 1308. Bar Counsel Review of Overdraft Notifications.

(a) Upon receipt of notification of insufficient funds from a financial institution under Rule 1307, Bar Counsel shall send the lawyer a written request for the following information:
   (1) A written explanation of the circumstances that resulted in the insufficient funds notification; and
   (2) Copies of bank statements on all trust accounts for the preceding six (6) months, including the month the overdraft occurred.

(b) Bar Counsel shall review the information provided by the lawyer under subsection (a) and:
   (1) Close the matter if the explanation satisfactorily explains the overdraft; or
   (2) Investigate the matter as a disciplinary complaint if the explanation is not satisfactory.

RULE 1309. Administration of IOLTA Funds.

(a) The Foundation is the only entity authorized to receive and administer IOLTA funds in Idaho.

(b) Interest transmitted to the Foundation shall, after deduction for the necessary and reasonable expenses of the Foundation for administration of the IOLTA program, be distributed by the Foundation in proportions it deems appropriate, for the following purposes:
   (1) legal aid to the poor;
   (2) law-related education programs for the public;
   (3) scholarships and student loans;
   (4) improvement of the administration of justice; and
   (5) such other programs for the benefit of the public as are specifically approved by the Supreme Court.