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 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.