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 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.