

**IDAHO STATE BAR
ACCREDITATION OF SPECIALTY CERTIFICATION PROGRAMS
FOR LAWYERS**

PART I: STANDARDS

SECTION 1: POLICY STATEMENT

1.01 This document establishes standards by which the Idaho State Bar will accredit specialty certification programs for lawyers in particular fields of law. The Standards require that an accredited organization demonstrate that lawyers certified by it possess an enhanced level of skill and expertise as well as substantial involvement in the specialty area of certification, and that accredited organizations foster professional development. The Standards are designed to enable the Bar to evaluate thoroughly the objectives, standards and procedures of Applicants and to facilitate public access to appropriate legal services.

SECTION 2: DEFINITIONS

2.01 As used in these Standards:

- (A) "Applicant" means a certifying organization which applies to the Idaho State Bar for accreditation or re-accreditation under these Standards.
- (B) "Bar" means the Idaho State Bar.
- (C) "Certifying Organization" means an organization, bar association, group, or other entity which certifies or intends to certify lawyers as specialists, including the Bar or subdivision thereof.
- (D) "Commissioners" or "Commission" means the Board of Commissioners of the Idaho State Bar.
- (E) "Standards" means the Idaho State Bar Standards for Accreditation Of Specialty Certification Programs For Lawyers.

SECTION 3: AUTHORITY

3.01 The authority to grant and withdraw accreditation and to grant re-accreditation is vested in the Bar.

SECTION 4: REQUIREMENTS FOR ACCREDITATION OF CERTIFYING ORGANIZATIONS

In order to obtain accreditation by the Bar for a specialty certification program, an Applicant must demonstrate that the program operates in accordance with the following standards:

- 4.01 **Purpose of Organization** -- The Applicant shall demonstrate that the organization is dedicated to the identification of lawyers who possess an enhanced level of skill and expertise, and to the development and improvement of the professional competence of lawyers.
- 4.02 **Organizational Capabilities** -- The Applicant shall demonstrate that it possesses the organizational and financial resources to carry out its certification program on a continuing basis, and that key personnel have by experience, education and professional background the ability to direct and carry out such programs in a manner consistent with these Standards.
- 4.03 **Decision Makers** -- A majority of the body within an Applicant organization reviewing applications for certification of lawyers as specialists in a particular area of law shall consist of lawyers who have substantial involvement in the specialty area.
- 4.04 **Uniform Applicability of Certification Requirements and Nondiscrimination**
 - (A) The Applicant's requirements for certifying lawyers shall not be arbitrary and shall be clearly understood and easily applied. The organization may only certify those lawyers who have demonstrably met each standard. The requirements shall be uniform in all jurisdictions in which the Applicant certifies lawyers, except to the extent state or local law or regulation imposes a higher requirement.
 - (B) Membership in any organization or completion of educational programs offered by any specific organization shall not be required for certification, except that this paragraph shall not apply to

requirements relating to the practice of law which are set out in statutes, rules and regulations promulgated by the government of the United States, by the government of any state or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

- (C) Applicants shall not discriminate against any lawyers seeking certification on the basis of race, religion, gender, sexual orientation, disability, or age. This paragraph does not prohibit an Applicant from imposing reasonable experience requirements on lawyers seeking certification or recertification.

4.05 **Definition and Number of Specialties** -- An Applicant shall specifically define the specialty area or areas in which it proposes to certify lawyers as specialists.

- (A) Each specialty area in which certification is offered must be an area in which significant numbers of lawyers in the United States regularly practice. Specialty areas shall be named and described in terms which are understandable to the potential users of such legal services, and in terms which will not lead to confusion with other specialty areas.
- (B) An Applicant may seek accreditation to certify lawyers in more than one specialty area, but in such event, the organization shall be evaluated separately with respect to each specialty program.
- (C) An Applicant shall propose to the Commissioners a specific definition of each specialty area in which it seeks accreditation to certify lawyers as specialists. The Commissioners shall approve, modify or reject any proposed definition and shall promptly notify the Applicant of its actions.

4.06 **Certification Requirements** -- An Applicant shall require for certification of lawyers as specialists, as a minimum, the following:

- (A) **Substantial Involvement** -- Substantial involvement in the specialty area throughout the three-year period immediately preceding application to the certifying organization. Substantial involvement is measured by the type and number of cases or matters handled and the amount of time spent practicing in the specialty area, and must require that the time spent in practicing the specialty be no less than 25% of the total practice of a lawyer engaged in a normal full-time practice.
- (B) **Character and Fitness/Peer Review** -- A certifying agency shall satisfy itself of the professional qualification and of the good character and fitness of an applicant. Membership in a state bar that requires character and fitness review shall not, in and of itself, satisfy this requirement. It is the intent of this provision to require periodic review of the respondent's character and fitness. As part of the peer review process, the certifying agency shall require a minimum of five references, a majority of whom are from attorneys or judges who are knowledgeable regarding the practice area and who are familiar with competence and character and fitness of the lawyer, and none of whom are persons related to or engaged in legal practice with the lawyer.
 - (1) **Type of References** -- The certification requirements shall allow lawyers seeking certification to list persons to whom reference forms could be sent, but shall also provide that the Applicant organization send out all reference forms. In addition, the organization may seek and consider reference forms from persons of the organization's own choosing.
 - (2) **Content of Reference Forms** -- The reference forms shall inquire into the respondent's areas of practice, the respondent's familiarity with both the specialty area and with the lawyer seeking certification, the length of time that the respondent has been practicing law and has known the lawyer, and the respondent's opinion as to the character and fitness of the lawyer. The form shall inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, the lawyer's dealings with judges and opposing counsel. The form shall inquire as to the character and fitness of the applicant lawyer to practice law generally.
- (C) **Written Examination** -- An evaluation of the lawyer's knowledge of the substantive and procedural law in the specialty area, determined by written examination of suitable length and complexity. The examination shall include professional responsibility and ethics as it relates to the particular specialty.
- (D) **Educational Experience** -- A minimum of 30 hours of participation in continuing legal education in the specialty area in the three-year period preceding the lawyer's application for certification. This requirement may be met through any of the following means:
 - (1) Attending programs of continuing legal education or courses offered by ABA-accredited law schools in the specialty area;
 - (2) Teaching courses or seminars in the specialty area;

- (3) Participating as panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or
 - (4) Writing published books or articles concerning the specialty area.
 - (5) Attending any continuing legal education courses which meet the criteria established in section IV of the Idaho Bar Commission Rules.
 - (6) The 30 hours of credit required under this rule will not automatically satisfy the requirements of IBCR 402(a)(3). Those credits must satisfy the criteria set forth in section IV of the Idaho Bar Commission Rules.
- (E) Good Standing -- A lawyer seeking certification must be admitted to practice and be an active member in good standing of the Idaho State Bar, and not suspended or disbarred in any jurisdiction. The certifying agency shall require the lawyer to notify it of any pending disciplinary investigation at the time of application, and shall require immediate notification, during the application period or at any time while certified, of the filing of any formal disciplinary charges seeking public sanction.
- 4.07 **Impartial Review** -- The Applicant shall maintain a formal policy providing lawyers who are denied certification an opportunity for review by an impartial decision maker.
- 4.08 **Requirements for Recertification** -- The period of certification shall be set by the Applicant, but shall be no longer than five years, after which time lawyers who have been certified must apply for recertification. Recertification shall require similar showings as those required by section 4.06, and shall include successful completion of a written examination.
- 4.09 **Revocation of Certification** -- The Applicant shall maintain a procedure for revocation of certification. The procedures shall require a certified lawyer to report his or her disbarment or suspension from the practice of law in any jurisdiction to the certifying organization.

SECTION 5: ACCREDITATION PERIOD AND RE-ACCREDITATION

- 5.01 Initial accreditation by the Bar of any Applicant shall be granted for three years.
- 5.02 To retain Bar accreditation, a certifying organization shall be required to apply for re-accreditation and present evidence of continuing compliance with these Rules at least 180 days prior to expiration of the previous accreditation. The organization shall be granted re-accreditation upon a showing of continued compliance with these Standards. At the time of application for recertification, the certifying organization shall notify all Idaho lawyers whom it certifies or has certified since its last application that it intends to make such application.

SECTION 6: REVOCATION OF ACCREDITATION

- 6.01 A certifying organization's accreditation by the Bar may be revoked upon a determination that the organization has ceased to exist, or has ceased to operate its certification program in compliance with these Standards.

SECTION 7: AUTHORITY TO IMPLEMENT STANDARDS

- 7.01 Consistent with these Standards, the Commissioners shall have the authority to:
- (A) Interpret these Standards;
 - (B) Adopt rules and procedures for implementing these Standards, and amend such rules and procedures as necessary;
 - (C) Adopt an appropriate fee schedule to administer these Standards;
 - (D) Consider applications by any certifying organization for accreditation or re-accreditation under these Standards, evaluate those requests in accordance with the Standards and approve such requests when it deems the organization has met the requirements as set forth in these Standards; and
 - (E) Revoke accreditation in accordance with the provisions of Section 6.01 of these Standards.

SECTION 8: ADOPTION AND AMENDMENT

- 8.01 These Standards become effective January 1, 1994.

PART II: GOVERNING RULES

Rule 1. PURPOSE AND DEFINITIONS

1-1 **Purpose.** These Rules are intended to implement the standards by which the Idaho State Bar accredits specialty programs for lawyers in particular areas of law.

1-2 **Definitions.**

1-2.1 "Accredited Organization" means an entity that is accredited by the Idaho State Bar to certify lawyers as specialists.

1-2.2 "Applicant" means a Certifying Organization that applies to the Idaho State Bar for accreditation or re-accreditation to certify lawyers as specialists.

1-2.3 "Bar" means the Idaho State Bar.

1-2.4 "Certifying Organization" means an organization, bar association, group, or other entity which certifies or intends to certify lawyers as specialists, including the Bar or subdivision thereof.

1-2.5 "Commissioners" or "Commission" means the Board of Commissioners of the Idaho State Bar.

1-2.6 "Evaluation Criteria" means the Idaho State Bar Evaluation Criteria for Accreditation Of Specialty Certification Programs For Lawyers.

1-2.7 "Procedures" means the Idaho State Bar Procedures for Accreditation Of Specialty Certification Programs For Lawyers.

1-2.8 "Rules" means the Idaho State Bar Governing Rules for Accreditation Of Specialty Certification Programs For Lawyer

1-2.9 "Standards" means the Idaho State Bar Standards For Accreditation Of Specialty Certification Programs For Lawyers.

Rule 2. ACCREDITATION PROCESS

2-1 The process of accrediting specialty certification programs for lawyers will proceed as specified in the Procedures, as amended from time to time. The Applicant's organizational features, operational methods and certification standards will be measured against the requirements of the Standards with the aid of the Evaluation Criteria.

Rule 3. ACCREDITATION PERIOD AND RE-ACCREDITATION

3-1 Initial accreditation is effective for three years from the date on which accreditation was granted by the Idaho State Bar.

3-2 To retain Bar accreditation, an Accredited Organization will be required to apply for re-accreditation prior to the end of the third year of its initial accreditation period and every three years thereafter. The organization will be granted re-accreditation only upon a showing of continued compliance with the Standards. As part of the re-accreditation process, the Accredited Organization shall provide written notification of its intent to seek re-accreditation to all Idaho lawyers who are or have been certified by it during the preceding three-year period. In the event that the organization determines to not apply for recertification, or in the event that recertification is denied, the organization shall notify all such Idaho lawyers of that action within 30 days.

Rule 4. REPORTING

4-1 An Accredited Organization shall be responsible for reporting in writing to the Commissioners as follows:

4-1.1 by April 1 of each calendar year, on a form promulgated by the Commissioners, a report describing the current status of each accredited program, including the names and current addresses of lawyers certified or recertified as specialists; and

4-1.2 any proposed changes in the organization's standards, guidelines or criteria for certification, at least 60 days before they are effective.

Rule 5. COMMUNICATION OF ACCREDITATION

5-1 Upon accreditation, an Accredited Organization may state that it is "Accredited by the Idaho State Bar to certify lawyers in the specialty area(s) of _____" under the following conditions:

- 5-1.1 An Accredited Organization using this announcement or otherwise referring to its accreditation by the Bar must provide notice to lawyers applying for certification that accreditation by the Bar indicates solely that the organization's certification program has met the Standards, and that the certification of the Accredited Organization does not constitute specialty certification by the Idaho State Bar.
- 5-1.2 This announcement must indicate the specialty areas in which accreditation has been granted by the Bar.
- 5-1.3 An Accredited Organization, other than the Bar or subdivision thereof, shall not permit certified lawyers to state or imply that they are certified or accredited by the Bar. Accredited Organization shall actively enforce this prohibition.

Rule 6. REVOCATION OF ACCREDITATION

- 6-1 Grounds for Revocation of Accreditation. The accreditation of an Accredited Organization shall be revoked if the organization has ceased to exist, or has ceased to operate its certification program in compliance with the Standards.
- 6-2 Hearing. The Commissioners, on their own or acting upon a complaint from a third party, may determine that reasonable grounds exist for consideration of revocation of accreditation. In such case, the matter shall be set for deliberation at one of the Commission's regularly scheduled business meetings. The Accredited Organization will be provided prompt written notice of the meeting and an opportunity to be heard at that meeting.
- 6-3 Decision. If the Commissioners determine that the Accredited Organization has ceased to exist, or has ceased to operate its certification program in compliance with the Standards, it may revoke its accreditation, by majority vote.
- 6-4 New Application for Accreditation. A Certifying Organization whose accreditation has been revoked may re-apply, at a subsequent time, for accreditation without prejudice.
- 6-5 Voluntary Withdrawal from Accredited Status. An Accredited Organization may request that its accreditation by the Bar be withdrawn by providing written notice to the Executive Director of the Bar. An Accredited Organization seeking withdrawal of its certification shall, wherever practical, provide 180 days advance notice to its certified Idaho lawyers.

Rule 7. DISCLOSURE OF INFORMATION

- 7-1 Except for the circumstances below, the files, records and documents submitted by an Applicant as part of the accreditation process will be deemed public information.
- 7-2 An Applicant may request that distribution of its materials by the Commissioners or any person acting as a panel member or advisor at the request of the Commissioners be limited to those persons who need the information to fulfill obligations specified in these Rules. In such cases, the Commissioners will take reasonable steps to honor such a request, but cannot assume responsibility for disclosure due to circumstances beyond its immediate control.
- 7-3 Notwithstanding other provisions of this Rule, actual or proposed written examinations submitted will be kept confidential and handled in accordance with Section 5(b)(v) of the Procedures.

Rule 8. CONFLICT OF INTEREST

- 8-1 General Guidelines.
 - 8-1.1 A person with a conflict of interest must be disqualified from any official involvement in any accreditation matter being considered.
 - 8-1.2 A person not otherwise required by this rule to recuse himself or herself but who feels for other reasons incapable of adequately performing his or her responsibilities should disqualify himself or herself.
 - 8-1.3 It is the duty of any volunteer or staff person involved in the accreditation process to disclose any present or previous affiliation that might lead to the conclusion of conflict of interest.
 - 8-1.4 The fact that the application of this rule would prevent investigation or adjudication of a particular matter may not result in the waiver or disregard of these requirements.
 - 8-1.5 Recusal should be formally noted in the record.
- 8-2 Guidelines for Commissioners.

- 8-2.1 It is not the intention of the Bar to restrict the personal, professional or proprietary activities of the Commission or its staff. However, disqualification is required for:
 - 8-2.11 any person who has served as a paid consultant or employee of any Applicant within two years prior to being a Commissioner or Bar staff member, in the determination of the accreditation status of the organization with which he or she previously served;
 - 8-2.12 any person with a substantial personal or professional relationship to a consultant or employee of an Applicant that is being reviewed; and
 - 8-2.13 any person with an appreciable pecuniary interest in the outcome of a review. This requires the recusal of anyone in direct economic competition with the Applicant.
- 8-2.2 Factual determinations must be based solely upon the record presented consistent with the Standards, Rules, Evaluation Criteria and Procedures, and not on any information extrinsic to the process specified in these documents.
- 8-2.3 The fact that a Commissioner may be certified as a specialist by a Certifying Organization does not, in and of itself, constitute a conflict of interest; provided, that the Commissioner shall disclose such certification before taking any official action concerning that Certifying Organization.

Rule 9. NONCOMPLIANCE WITH GOVERNING RULES OR PROCEDURES

- 9-1 An Applicant or an Accredited Organization that does not comply with the Rules may be denied accreditation or re-accreditation or may have its accreditation revoked. In addition, noncompliance with the Procedures or deadlines set out in the Procedures may cause a delay in the disposition of an application for accreditation or re-accreditation.

Rule 10. INDEMNIFICATION AND HOLD HARMLESS

- 10-1 Accredited Organizations and Applicants agree to hold and save the Bar, its volunteers, officers, agents and employees harmless from liability of any kind, including costs and expenses, for any suit or damages sustained by any person or property by virtue of an Accredited Organization's or Applicant's activities relating to accreditation by the Bar.

Rule 11. AMENDMENT OF GOVERNING RULES, EVALUATION CRITERIA AND PROCEDURES

- 11-1 The Commissioners may revise or amend these Rules, Evaluation Criteria and Procedures by a majority vote.

PART III: EVALUATION CRITERIA

The accreditation process is designed to compare an Applicant's organizational features, operational methods and certification standards against requirements of the Standards. In conducting this comparison, the Commissioners utilize the criteria specified below to make the examination of the Applicant as objective and fair as possible. Criteria written with the word "must" are based directly on the Standards and are therefore mandatory. Criteria written with the word "should" are interpretive and intended to guide the evaluators in applying the Standards. The definitions contained in Rule 1 of the Governing Rules also apply to the Evaluation Criteria.

- A. **Purpose of Organization.** [See Standards, Section 4.01] The Applicant must demonstrate that its certification program includes the identification of lawyers who possess an enhanced level of skill and expertise in the area of law or practice for which specialist certification is being issued. The Applicant must also show that its certification program has as a goal the development and improvement of the professional competence of lawyers.
- B. **Organizational Capabilities.** [See Standards, Section 4.02] Any program designed to certify lawyers as specialists is expected to have a continuing responsibility to those it certifies to maintain the integrity and the value of the specialty designation. An Applicant seeking accreditation must establish that it possesses and will continue to maintain the governance and organizational structures, a reliable source of adequate financial resources and the established administrative processes needed to carry out a certification program in an unbiased, professional and ethically responsible manner on a continuing bases. The primary criteria which will be used in determining organizational capabilities are:

1. a history of adequate financing during the three years preceding the filing of the application. If the Applicant is newly formed, this criteria will be applied to a parent or sponsoring organization, or to individual founders, if no founding organization is involved;
2. the existence of a budget and financial plan for three years following a grant of accreditation should it be made;
3. the presence of persons retained by or on the governing board, evaluation committees and staff of the organization who are qualified by experience, education and background to carry out the program of certification operated by the Applicant, including persons with a background in evaluating the validity and reliability of examinations, as well as experienced practitioners in the areas of law in which the organization conducts certification programs;
4. management, administrative and business practices which allow the Applicant to operate its certification program effectively and provide efficient service to lawyers who submit applications for certification. The processes and procedures used in the certification process should include safeguards to ensure unbiased consideration of lawyers seeking certification; and
5. existence of a handbook, guide or manual which outlines the standards, policies, procedures, guides for self-study, and application procedures.

C. **Decision Makers.** [See Standards, Section 4.03] The Standards require that a majority of any Applicant's governing board, evaluation committee or advisory panel which reviews and passes upon applications for certification be composed of lawyers who have substantial involvement in the specialty area. For the purpose of this criterion, a person is deemed to meet the "substantial involvement" requirement if he or she:

1. is a specialist certified in the area of law by an organization accredited under the Standards or approved to certify lawyers in one or more states or territories of the United States or the District of Columbia; or
2. meets the qualifications set out in Section 4.06(A) of the Standards.

D. **Uniform Applicability of Certification Requirements and Nondiscrimination.** [See Standards, Section 4.04] The Applicant's documents and records submitted in conjunction with their application for accreditation will be examined to ensure that the requirements for granting certification are clearly stated and that any lawyer who applies who meets such requirements is granted certification.

1. The materials published by the Applicant must not state nor imply that membership in, or the completion of educational programs offered by, any specific organization are required for certification, except that this paragraph does not apply to requirements relating to the practice of law which are set out in statutes, rules and regulations promulgated by the government of the United States, by the government of any state or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.
2. The description of the program must indicate that the Applicant does not discriminate against lawyers seeking certification on the basis of race, religion, gender, sexual orientation, disability or age. Experience requirements for lawyers seeking certification or recertification which may indirectly have an effect on a particular age group must be reasonable.
3. The Applicant's requirements for certification are examined to assure that they are uniform in all jurisdictions in which the Applicant certifies lawyers, except as otherwise specifically required by these Rules.

Every Accredited Organization must develop and administer a full certification program which includes its measurement of substantial involvement, its own peer review, its own written examination and its requirements regarding educational experience, as those criteria are described in the Standards. However, in a state which administers its own certification program, the organization may allow passage of that state's examination to satisfy its own written examination requirement provided that the state's examination and its grading criteria are consistent with the Standards and are substantially similar to those of the Applicant Organization.

Where requirements differ because of state or local law regulation, such differences should be explicitly stated in the materials which describe the certification program.

E. **Definition and Number of Specialties.** [See Standards, Section 4.05] The Applicant must define each specialty area for which accreditation is being sought and provide evidence that the specialty is one in which significant numbers of lawyers regularly practice. Such evidence may include surveys, court

statistics or legal directories. The Applicant is responsible for gathering and citing such statistics to support its claim.

1. The input of Bar and other entities and the definitions of specialty adopted by the Bar and published in "Model Standards for Specialty Areas" may be used as guides in determining whether the Applicant's definition of a given specialty meets the Standards. Extensive review of whether a particular specialty definition complies with the requirements of the Standards may result in a delay of a decision on an application.

F. **Substantial Involvement.** [See Standards, Section 4.06(A)] The Applicant must require that a lawyer seeking certification make a satisfactory showing of experience through substantial involvement in the specialty area. Substantial involvement generally includes the type and number of cases or matters handled and the amount of time spent practicing in the specialty area.

1. In order to meet the Standard, the Applicant's certification criteria must require that the time spent practicing the specialty be at least 25% of the total practice of a lawyer engaged in a normal full-time practice throughout the three-year period immediately preceding the lawyer's application.

G. **Peer Review.** [See Standards, Section 4.06(B)] The Applicant must require that a lawyer seeking certification submit the names of at least five references, a majority of whom are attorneys or judges who are knowledgeable regarding the practice area and are familiar with the competence of the lawyer.

1. The Applicant's procedures must provide that the Applicant, not the lawyer seeking certification, sends the reference forms to potential references.
2. The reference forms should inquire into the respondent's areas of practice, the respondent's familiarity with both the specialty area and with the lawyer seeking certification, and the length of time that the respondent has been practicing law and has known the lawyer seeking certification. The form should also inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, that lawyer's dealings with judges and opposing counsel. The form shall inquire as to the character and fitness of the applicant lawyer.
3. The materials provided to a lawyer seeking certification must specify that the lawyer may not submit as a reference the name of any lawyer or judge who is related to the lawyer seeking certification or currently engaged in legal practice with that lawyer.
4. The Applicant should reserve the right to seek and consider reference forms from persons of the organization's own choosing.

H. **Written Examination.** [See Standards, Section 4.06(C)] The Applicant must require that a lawyer seeking certification pass a written examination of suitable length and complexity. The examination must test the knowledge and skills of the substantive and procedural law in the specialty area, substantially consist of questions not previously used on other examinations, and shall include professional responsibility and ethics as it relates to the particular specialty. The following factors will be used to judge the suitability of the examination used by the Applicant:

1. evidence that the examination's pass/fail levels are established in a manner that is generally accepted as being valid;
2. evidence of both reliability and validity for each form of the examination. Reliability is the consistency or replicability of test results. Validity requires that the content and emphasis of the examination proportionately reflect the knowledge and skills needed for an enhanced level of skill and expertise in the specialty area;
3. evidence of periodic review of the examination to ensure relevance to knowledge and skills needed in the specialty area as the law and practice methods develop over time; and
4. evidence that appropriate measures are taken to protect the security of all examinations.

I. **Educational Experience.** [See Standards, Section 4.06(D)] The Applicant must require that a lawyer seeking certification has completed a minimum of 30 hours of participation in continuing legal education in the specialty area in the three-year period preceding the lawyer's application for certification.

1. The Applicant may allow a lawyer seeking certification to meet this requirement through any of the following means, including a combination of them:
 - a. attending programs of continuing legal education or courses offered by Bar-accredited law schools in the specialty area, including attendance of programs by videotape;
 - b. teaching courses or seminars in the specialty area;

- c. participating as panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or
 - d. writing published books or articles concerning the specialty area.
 - e. Attending any continuing legal education courses which meet the criteria established in section IV of the Idaho Bar Commission Rules.
 - f. The 30 hours of credit required under this rule will not automatically satisfy the requirements of IBCR 402(a)(3). Those credits must satisfy the criteria set forth in section IV of the Idaho Bar Commission Rules.
2. The Applicant should require a lawyer seeking certification to provide evidence showing that the programs, courses, seminars, conferences and publications listed above contain sufficient intellectual and practical content so to increase a lawyer's knowledge and ability in the specialty area. State-approved continuing legal education programs in the specialty area will be deemed to have met this criterion.
- J. **Good Standing.** [See Standards, Section 4.06(E)] The Applicant must require that a lawyer seeking certification furnish satisfactory evidence of an active license to practice law in Idaho. Such lawyers must be in good disciplinary standing in all jurisdictions in which he or she has been admitted. The application form should request the lawyer to list all current admissions to the bar, along with registration numbers where applicable.
- K. **Impartial Review.** [See Standards, Section 4.07] The Applicant must provide evidence that it maintains and publishes a policy providing an appeal procedure for a lawyer seeking certification to challenge the decision of the persons who review and pass upon applications for certification. The policy must provide a lawyer seeking certification the opportunity to present his or her case to an impartial decision maker in the event of denial of eligibility or denial of certification. Impartial decision makers may include persons associated with the Applicant.
- L. **Requirements for Recertification.** [See Standards, Section 4.08]
- 1. The Applicant must have in existence or be in the process of developing a plan for periodic recertification.
 - 2. The period of certification or recertification may not exceed five years.
 - 3. The plan for periodic recertification must be designed to measure continued competence and character and fitness, and to enhance the continued competence of certified lawyers. Recertification requirements must be at least as stringent as those for initial certification in the areas of substantial involvement, peer review, educational experience and good standing, and must include successful completion of a written examination.
 - 4. In cases where a lawyer was certified by the Applicant Organization prior to its accreditation by the Bar and such lawyer did not successfully complete a written examination that meets the requirements set out in Standard 4.06(C), the Applicant Organization must require that the lawyer successfully complete such an examination upon recertification.
 - 5. As part of the re-accreditation process, the Accredited Organization shall provide written notification of its intent to seek re-accreditation to all Idaho lawyers who are or have been certified by it during the preceding three-year period, as set forth in Rule 3.
- M. **Revocation of Certification.** [See Standards, Section 4.09] The Applicant must maintain a procedure for revocation of certification, including a requirement that a certified lawyer report his or her disbarment or suspension from the practice of law in any jurisdiction to the Applicant.

PART IV: PROCEDURES

1. INTRODUCTION

These procedures are intended to describe the process used by the Idaho State Bar to accredit specialty certification programs for lawyers. The procedures should be read and interpreted in conjunction with the accreditation Standards, Governing Rules and Evaluation Criteria. The definitions contained in Rule 1 of the Governing Rules also apply to the procedures.

2. ACCREDITATION PROGRAM COMPONENTS

- a. The Commission grants, denies or revokes accreditation, and grants re-accreditation on behalf of the Bar.
- b. The Commission shall act regarding applications for accreditation and re-accreditation. Upon a finding that an Accredited Organization has ceased to exist or has ceased to operate its certification program in compliance with the Standards, the Commissioners may revoke the accreditation.

3. PRE-APPLICATION ADVISORY SERVICES

An entity considering filing an application for accreditation of a program to certify lawyers as specialists may obtain information and advice from the Bar prior to filing a formal application. Inquiries should be addressed to the Executive Director, who will supply a copy of the Standards, Rules, Evaluation Criteria, Procedures, fee schedules and other pertinent data, and respond to any questions the entity may have regarding the establishment of a lawyer specialty certification program and accreditation by the Bar.

4. NOTICE OF INTENT TO APPLY FOR ACCREDITATION

Prior to making a formal application for accreditation, an Applicant is required to file with the Commissioners a Notice of Intent to Apply Form and, in addition, pay a nonrefundable pre-application fee in the amount specified on the form. Upon receipt of the notice and fee, the Applicant will be sent an official application packet containing the forms and instructions to be used in filing the application. This requirement serves the purpose of providing basic information about the Applicant in advance to expedite processing of the formal application when it is submitted.

5. APPLICATION FOR ACCREDITATION

Subject to the notice of intent to file requirement described above, an Applicant may file a formal application for accreditation with the Commissioners at any time on forms provided by the Bar, together with payment of a basic application fee, plus a certificate fee for each specialty certificate issued by the Applicant. The Commissioners shall notify the membership of the Idaho State Bar, through publication in The Advocate, that the Applicant has submitted such application. Such notice shall invite comments concerning the Applicant. An entity desiring copies of materials furnished by the Applicant as part of its application shall bear the costs of duplicating such materials.

- a. Supporting Documents. The application for accreditation must be accompanied by all of the following supporting documents:
 - i. the Applicant's governing documents, including articles of incorporation, bylaws, and resolutions of the governing bodies of the Applicant or any parent organization, which resolutions relate to the standards, procedures, guidelines or practices of the Applicant's certification program;
 - ii. financial information about the Applicant and any supporting parent organization as specified on forms provided by the Commissioners;
 - iii. biographical summaries of members of the governing board, senior staff and members of advisory panels, including specific information concerning the degree of involvement in the specialty area of persons who review and pass upon applications for certification;
 - iv. materials furnished to lawyers seeking certification, application forms, booklets or pamphlets describing the certification program, peer reference forms, rules and procedures and evaluation guides;
 - v. copies of examinations given in the past two years, or in the case of a new organization, copies of proposed examinations (in those cases where an organization accepts examination by another entity, copies of such examinations), with evidence of their validity and reliability, such as written examination procedures, including a description of how examinations are developed, conducted and reviewed; a description of the grading standards used; and the names of persons responsible for determining pass/fail standards. Actual or proposed written examinations are to be made available on a confidential basis for review by a person designated by the Commissioners, with the understanding that the Applicant, at its option, may rule the person who reviews the examination ineligible for

- certification by the Applicant for a period of three years from the time of such designation;
- vi. the definition of the specialty or specialties in which the Applicant certifies specialists; and
- vii. such other materials or information deemed necessary by the Commissioners.

6. PRELIMINARY REVIEW BY STAFF ADVISOR.

Upon receipt of a Notice of Intent to Apply, the Executive Director reviews all materials submitted by the Applicant for completeness and conformance with the basic requirements of the Standards, Rules and Evaluation Criteria.

- a. If omissions are noted or clarification of responses is needed, the Executive Director contacts the Applicant and requests additional information. The Executive Director's request is following up by written confirmation. The Executive Director notifies the Applicant once the materials are deemed complete.
- b. Applications that are not accompanied by all of the supporting documents specified in Section 5(b) above will not be processed. The Executive Director will notify promptly the Applicant of the omissions. The Applicant will have 60 days from the time of such notice to submit the required materials or request an extension. In the event that the materials are not submitted within this period and a request for extension has not been granted, the application will be deemed to have lapsed and no longer eligible for consideration. In this case, the Applicant will receive a refund in the amount of 50% of the basic application fee.
- c. Where the Executive Director notes any obvious deficiencies in the Applicant's program or capabilities as compared with the Standards, Rules and Evaluation Criteria, the Executive Director so notifies the Applicant and discusses possible modifications in the Applicant's program which may remedy the noted problems.
- d. An Applicant who is notified during preliminary review about apparent deficiencies in its program may:
 - i. request that its application, without modification, be given full review; or
 - ii. withdraw the application without prejudice either permanently or for the purpose of making suggested modifications in its program.
- e. An Applicant's request that consideration of its application be suspended pending modification of its program may cause final action by the Commissioners to be deferred until a following meeting.
- f. An application will be deemed to have lapsed and no longer eligible for consideration, and the Applicant will receive a refund of 50% of the application fee if it:
 - i. withdraws its application permanently pursuant to Section 6(d)(ii); or
 - ii. withdraws its application for the purpose of making modifications pursuant to Section 6(d)(ii), and does not file an amended application form within 120 days of the filing of the original application.
- g. Withdrawal of an application does not preclude a subsequent application.

7. EVALUATION OF APPLICATION

- a. As soon as reasonably practical after the receipt of a completed application for accreditation, the Commissioners shall evaluate the credentials of the Applicant.

8. RECONSIDERATION OF DECISION BY COMMISSIONERS

An Applicant or an Accredited Organization that is adversely affected by a decision of the Commissioners as specified below may petition the Commissioners for reconsideration of its action.

- a. **Petition and Procedure.** An Applicant or an Accredited Organization must file with the Commissioners a petition for reconsideration within 30 days after the decision of the Commissioners. The petition must demonstrate that on reconsideration, the petitioner would submit information or undertakings that have not been adequately communicated to the Commissioners. In his or her discretion, the Commissioners will determine whether the showing has been made, and if so, grant the petition for reconsideration.
- b. **Lapse of Application.** Upon a denial of a petition for reconsideration, the application will be considered closed. At a subsequent time, the Applicant may re-apply for accreditation without prejudice.

9. **ACCREDITATION BY AMERICAN BAR ASSOCIATION**

Approval of a Certifying Organization by the American Bar Association's House of Delegates shall create a presumption of approval for certification by the Idaho State Bar, subject to meeting any additional requirements imposed by these Rules. Certifying Organizations seeking Idaho certification after ABA approval shall submit a cover letter explaining the relevant dates of its ABA approval, together with the application materials provided to the ABA and the document conferring certification by the ABA. The Commissioners shall examine the application materials to determine whether Idaho criteria have been met. If such criteria have been met, and if no other obstacle to approval is apparent, the Commissioners may promptly approve the Certifying Organization.

10. **WAIVER**

An applicant or certifying organization may seek a waiver of any provision of these Rules by petitioning the Board of Commissioners. The application for waiver shall clearly identify the provision sought to be waived, and shall be accompanied by a detailed explanation of why the applicant/certifying organization is unable to comply with that provision. The Board of Commissioners may grant the waiver, in its discretion, only if the applicant has demonstrated that enforcement of the provision would make it unlikely that the applicant/certifying organization could otherwise gain approval under these Rules and that the waiver will not work in derogation of the overall purpose and intent of these Rules. Such an application for waiver may accompany the application for certification, or it may be submitted as a preliminary matter. If the waiver application is submitted with a certification application, and the waiver is denied, the applicant shall be entitled to a refund of its application fee.