

THE SUPREME COURT OF THE STATE OF ALASKA  
ORDER NO. 161

Amending the Alaska Bar Rules

IT IS ORDERED:

- 1) that existing Rule II of the Alaska Bar Rules is hereby repealed;
- 2) that the Alaska Bar Rules be divided into two parts to be known as Part I Admissions; and Part II Grievances and Reinstatement;
- 3) that Part I Admissions shall read as set forth in the attached rules:

Part I Admissions

- Rule 1. Board of Governors: General Powers Relating to Admissions
- Rule 2. Eligibility for Admission
- Rule 3. Applications
- Rule 4. Examinations
- Rule 5. Notice
- Rule 6. Certificate of Admission: Membership Registration and Fees
- Rule 7. Review
- Rule 8. Supreme Court Review;

- 4) that existing Rule I of the Alaska Bar Rules be known as Part II, Rule 1, Grievances Procedures and Reinstatement.


PROVIDED, HOWEVER, that an applicant who has been a bona fide resident of Alaska for more than 30 days prior to the effective date of this Order, and who meets the requirements of Part I, Rule 2, Section 2, Subsections (a) and (b), and who prior to the approval of this rule would have been eligible to take the bar examination of this state, may request an examination as an attorney applicant.


and, PROVIDED FURTHER, that applications for reciprocity filed under provisions of the former rule, shall be accepted for a period of 75 days after the effective date of these rules,

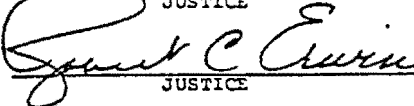
and, PROVIDED FURTHER, that applicants for examination filed no fewer than 75 days prior to July 24, 1973, shall be considered applications for the July, 1973 examination.


These rules shall be effective immediately.

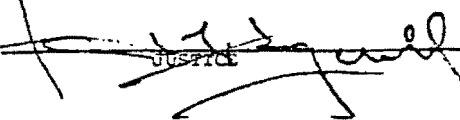
DATED: at Anchorage, Alaska, this 8<sup>th</sup> day of June, 1973.

  
CHIEF JUSTICE

  
JUSTICE

  
JUSTICE

  
JUSTICE

  
JUSTICE

PART I            ADMISSION.

RULE I:    BOARD OF GOVERNORS: GENERAL POWERS RELATING TO  
ADMISSIONS.

Section 1. As used in Rules I-VIII:

- (a) "Attorney applicant" means a person who has complied with the eligibility requirements of Rule 2, Section 2;
- (b) "Bar examination" means the general or attorney's examinations which shall be offered to applicants for admission to the practice of law in Alaska;
- (c) "Board" means the Board of Governors of the Alaska Bar Association;
- (d) "Committee" means the Committee of Law Examiners appointed by the Board;
- (e) "Executive Director" means the Executive Director of the Alaska Bar Association;
- (f) "General applicant" means a person who has complied with the eligibility requirements of Rule 2, Section 1(a) through (f);
- (g) "President" means the President of the Alaska Bar Association.

Section 2. Only those persons who fulfill all requirements for admission as provided by these rules shall be admitted to the practice of law in the State of Alaska and shall be members of the Alaska Bar Association.

Section 3. The Board shall examine or provide by contract or otherwise for the examination of all applicants for admission to the practice of law and shall determine or approve the time, place, scope, form and content of all bar examinations. Bar examinations may, in whole or in part, be prepared, administered and graded by or in cooperation with other states or the National Conference of Bar Examiners consistent with standards fixed or approved by the Board acting with the advice of the Committee of Law Examiners. No contract or cooperative agreement for the preparation, administration or grading of a bar examination shall operate to divest the Board of its authority (1) to cause the Committee to review any examination, and (2) independantly to determine the eligibility of an applicant to be admitted to the practice of law. The Board or any member thereof may require an applicant to appear before the Board, a committee or a master appointed by the President for such purpose, at such times and places as may be required, for oral examination and to furnish any such supplemental information or evidence in such form as may be required.

Section 4. The President shall appoint a Committee of Law Examiners composed of nine members of the Alaska Bar Association. Members of the Committee shall serve for three years and until their successors are appointed, except that an initial appointment of three members shall be for one year, and an initial appointment of three other members shall be for two years so as to effectuate staggered terms of office.

Section 5. The Committee shall prepare and grade, or administer the bar examination. The Committee shall advise the Board concerning the preparation, grading or administration of bar examinations as from time to time directed by the Board. The Board shall furnish to the Committee clerical and other assistance as may be deemed necessary by the Board.

Section 6. A majority of the members of the Committee shall constitute a quorum for the transaction of business relating to admissions. Five members of the Board shall constitute a quorum for such business.

Section 7. Any member of the Board, upon application by the Executive Director or by a master appointed by the President, shall have the power to issue subpoenas for the attendance of witnesses, or for the production of documentary evidence before the Board or before anyone authorized to act in its behalf.

Section 8. A member of the Board or anyone authorized to act in its behalf shall have power to administer oaths and affirmations and to take testimony concerning the admission of an applicant or administration of this Rule.

Section 9. Any person subpoenaed by the Board or its designee to appear or produce writings who refuses to appear, give testimony, or produce the matter subpoenaed is in contempt of the Board. A member of the Board may report a contempt of the Board to the Superior Court for the Judicial District in which the proceeding is being conducted. The refusal or neglect of an applicant to respond to a subpoena or subpoena duces tecum shall constitute cause for abatement of further proceedings and dismissal of the application by order of the Board and costs may be assessed in the case of the applicant's contempt.

Section 10. On verified petition of the Executive Director or of an applicant, any member of the Board may order that the testimony of a material witness residing inside or outside the state be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set out (1) the name and address of the witness whose testimony is desired; (2) a showing of the materiality of his testimony; (3) a showing that the witness will be unable or cannot be compelled to attend; and (4) a request for an order requiring the witness to appear and testify before an officer named in the petition for that purpose. If the witness resides outside the state and if a member of the Board orders the taking of his testimony by deposition, the member of the Board shall obtain an order of court to that effect by filing a petition for the taking of the deposition in the superior court. The proceedings on this order shall be in accordance with provisions governing the taking of a deposition in the superior court in a civil action.

**RULE 2: ELIGIBILITY FOR ADMISSION**

Section 1. Every applicant for admission to the practice of law shall

- (a) File an application in form prescribed by the Board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for admission;
- (b) Be a graduate of a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated or submit proof that the law course required for graduation from such a law school will be completed and that a degree will be received as a matter of course before the date of examination. Graduates of law schools in which the principles of English Common Law are taught but which are located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, may qualify for admission upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;
- (c) Have attained the age of 19 years;
- (d) Be of good moral character;
- (e) Be a citizen of the United States, or a resident alien who intends to become a citizen of the United States;
- (f) Be and remain a bona fide resident of the State of Alaska for a period beginning at least 30 days prior to the first day upon which the bar examination is to be given and continuing through the date upon which the Board certifies the applicant for admission to the Alaska Bar Association;
- (g) Pass the bar examination prescribed by the Board pursuant to Rule 4 hereof.

Section 2. An applicant who meets the requirements (a) through (f) of Section 1 of this Rule and

- (a) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and
- (b) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District of Columbia for five of the seven years immediately preceding the date of his first application for admission to the practice of law.

may, on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall be required to pass the attorney bar examination prescribed by the Board.

**RULE 3: APPLICATIONS**

**Section 1.** An application form shall be provided by the Board upon request and upon payment of such fees as the Board shall deem appropriate. The time, date, place or places of each bar examination shall be announced by the Board no fewer than 120 days prior to the first day of such bar examination and prompt notice thereof shall be provided all applicants and persons who have been provided applications following the date of the last preceding bar examination. Application forms provided by the Board shall be transmitted with a copy of the Alaska Bar Rules governing admission to the practice of law. The Board may provide such other matter as it may deem pertinent.

**Section 2.** Any person seeking admission to the practice of law shall file with the Executive Director at the office of the Alaska Bar Association an application, in duplicate, in the form provided by the Board. The application shall be made under oath and contain such information relating to the applicant's age, residence, addresses, citizenship, occupations, general education, legal education, moral character and other matters as may be required by the Board. Any notice required or permitted to be given an applicant under these rules, if not personally delivered shall be delivered to the mailing address declared on the application unless notice in writing is actually received by the Board declaring a different mailing address. Any notice concerning the eligibility of the applicant sent by certified mail to the last mailing address so provided shall be deemed sufficient under these rules. Every applicant shall submit two 2-inch by 3-inch photographs of himself showing a front view of his head and shoulders. The application shall be deemed filed only upon receipt of a substantially completed form with payment of all required fees. Applications received without payment of all fees or which are not substantially complete shall be promptly returned to the applicant with a notice stating the reasons for rejection and requiring payment of such additional fees as may be fixed by the Board as a condition of reapplication.

**Section 3.** An application shall be filed no fewer than ninety days prior to the first day of the examination. An untimely application shall be considered an application for the next following examination unless withdrawn by the applicant.

**Section 4.** The application fee shall be in an amount fixed by the Board from time to time. Fees shall be paid at the time an application is filed.

**Section 5.** If an applicant fails to meet the requirements of Rule 2, or to take a bar examination, no refund shall be made unless the application shall be withdrawn within 10 days following notice of its receipt by the Board in which event the application fee, less a reasonable cancellation fee, shall be refunded.

**Section 6.** An applicant who has failed to pass a bar examination required by Rule 2 may reapply for admission to take a subsequent bar examination.

Reapplication shall be made by:

- (a) Sending written notice of intention to re-apply to the Board within 60 days following notice of failure. Such notice shall include a description of the applicant's interim employment and any other circumstances affecting the applicant's suitability for admission to the practice of law in Alaska;
- (b) Providing such additional information as may be required by the Board.

Applicants for reexamination shall be required to pay such additional examination and application fees as may be fixed by the Board. An applicant who does not comply with this Section must reapply pursuant to Sections 1 through 5 of this Rule.

Section 7. An applicant who has failed to pass three bar examinations may be examined only by leave of the Board. Leave shall be granted only if the Board finds that there has been a substantial change in circumstances affecting the applicant's ability to pass the bar examination. The burden of establishing a substantial change in circumstances shall be upon the applicant.

#### RULE 4: EXAMINATIONS

Section 1. An applicant shall be allowed to take the bar examination once his application is approved by the Board. Every applicant shall be notified no fewer than ten days in advance of the bar examination whether his application has been approved and shall be provided an examination permit which shall state whether the examinee is an attorney applicant or a general applicant. The examination permit shall be presented to the examination proctor on the first day of the examination.

Section 2. Every applicant shall, after his application is approved by the Board, submit to a bar examination. The bar examination shall be given not less than once every twelve months; shall be written; and shall be conducted in the manner and at the time and place established by the Board. The Board may direct that the bar examination be administered to applicants with physical handicaps in a fair and reasonable manner other than the manner by which it is administered to other applicants. An applicant with a physical handicap who desires the bar examination to be administered to him in a manner other than that by which it is administered to other applicants shall so petition the Board at the time of filing his application. Approval of an application and subsequent bar examination shall not operate to foreclose a subsequent determination by the Board that the applicant is unfit or ineligible for certification to the Supreme Court for admission to the practice of law.

Section 3. The Committee shall, as soon as practicable after the bar examination, certify to the Board its written report of bar examination. Except to the extent that such material or information is unavailable to the Committee under the rules or policies of the National Conference of Bar Examiners, the Committee shall submit

to the Board a copy of the bar examination questions, the model answers thereto, a representative sampling of passing and failing answers to the bar examination, and a written report stating the total number of applicants examined, the number passing and the number failing the bar examination, the average performance of each as designated by the code number of each, the maximum possible point value of each bar examination part or section and other information the Committee or the Board may deem relevant.

Section 4. The Board shall determine the qualifications of each applicant upon the basis of the report of examination, the recommendations of the Executive Director, and such other matter it may consider pertinent under these rules. The Board shall certify to the Supreme Court the results of the bar examination and its recommendations as to those applicants who are determined qualified for admission to the practice of law and who have complied with the provisions of Rule 6. Notice of the Board's determination shall be provided in writing to each applicant. Notice to an applicant determined not qualified shall state the reason for such determination.

Section 5. If written request is made of the Board within one month following notice of failure to pass a bar examination and except to the extent that such material or information is unavailable under the rules or policies of the National Conference of Bar Examiners, an applicant who takes and fails to pass the bar examination has the right to inspect his examination books, the grades assigned thereto, and a representative sampling of passing and failing answers to the bar examination at the office of the Alaska Bar Association, or at such other place and at such time or times as the Board may designate. An applicant who passes the bar examination is not entitled to inspect any examination books or discover the grades assigned thereto.

Section 6. The passing grade of the bar examination shall be seventy percent of the highest possible grade.

Section 7. All examination books and answers, including those designated by the Committee as comprising a representative sampling of passing and failing answers to the bar examination, may be destroyed one year following the last date an applicant has been notified of his failure; except that no examination book and answers shall be destroyed until one year following the final disposition of any proceeding to which they may be relevant.

RULE 5: NOTICE

Section 1. Notice of any final adverse determination by the Board, a master or a committee appointed by the Board shall be given to an applicant. Such notice shall be sufficiently specific to allow the applicant to be able to prepare a response, petition for review, or request for hearing as may be permitted under these rules.

Section 2. Only written notice given by the Board shall be effective. Notice by certified mail to the latest address on file with the Executive Director shall be effective.



Section 3. An applicant may be represented by an attorney in all proceedings for admission to the practice of law. Such attorney shall file a written appearance with the Board and notices required or permitted to be given the applicant shall thereafter be served upon his attorney.

RULE 6: CERTIFICATE OF ADMISSION: MEMBERSHIP REGISTRATION AND FEES

Section 1. An applicant receiving notice that his eligibility to practice law has been determined by the Board shall within ninety days file an Alaska Bar Association registration card in the form provided by the Board. The applicant shall certify under oath that he has been a resident of Alaska continuously for thirty days immediately prior to the bar examination. The applicant shall pay prorated active membership fees for the balance of the calendar year in which he is admitted computed from the date of payment.

Section 2. An applicant who fails to comply with the provisions of Section 1 of this Rule shall not be eligible for certification to the Supreme Court for admission and shall be deemed to have abandoned his application. For good cause shown the Board may excuse untimely compliance with Section 1 of this Rule.

Section 3. Upon receiving certification of the eligibility of an applicant the Supreme Court may enter an order admitting the applicant as an attorney at law in all the courts of the state and to membership in the Alaska Bar Association. Each applicant ordered admitted to the practice of law shall take the following oath before the Supreme Court or a justice thereof:

I do affirm:

I will support the Constitution of the United States and the Constitution of the State of Alaska;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any proceeding which shall appear to me to be taken in bad faith, or any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by an artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge or approval;

I will be candid, fair, and courteous before the court and with other attorneys, and advance no fact prejudicial to the honor or reputation of

a party or witness, unless required by the justice of the cause with which I am charged;

I will strive to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

A certificate of admission shall thereupon be issued to the applicant by the clerk of the court.

#### RULE 7: REVIEW

Section 1. An applicant who has been denied an examination permit or who has been denied certification to the Supreme Court for admission to practice shall have the right within thirty days after notice of such denial to file with the Board a written verified statement of appeal. Failure timely to file an appeal statement shall constitute waiver of appeal rights. In his statement, an applicant shall state all grounds upon which he intends to rely and may:

- (a) object to the form of notice from which such appeal is taken on the ground that it is so indefinite or uncertain that he cannot reasonably prepare his statement;
- (b) present new matter on which he relies to establish his eligibility for admission to practice.

An applicant who is denied an examination permit or who is denied certification shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board, the Executive Director, the Committee or a master. If the allegations in the verified statement are found to be sufficient by the Board, a hearing shall be granted.

Section 2. In any appeal the applicant shall have the burden of proving the material facts upon which he relies.

Section 3. A master appointed by the President from among the active membership of the association shall preside at all hearings convened under this rule. The master shall hear the evidence without the Board unless the President shall order the hearing in the presence of the Board. No fewer than twenty days before the hearing the applicant shall be given notice of the date of the hearing, the identity of the master, and whether the hearing is to be before the master alone, or before the Board with the master. All notices shall be given by the Executive Director as required by the master or the President.

Section 4. When the Board hears the case with the master, the master shall preside and rule on the admission of evidence. The hearing shall be administered as directed by the Board.

Section 5. A Board member or a master appointed under this rule shall disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing. The applicant may request the disqualification of the master or of a Board member by filing an affidavit

within ten days following the first notice of the hearing. The affidavit shall state with particularity why a fair and impartial hearing cannot be accorded by the person sought to be disqualified. Where the request concerns a Board member the issue shall be determined by the master. Notice of the determination shall be given applicant no fewer than 10 days before commencement of the hearing and such notice shall include the name of a new master if one is appointed. The time for notice fixed by Section 3 and by this Section shall not apply to notice concerning a master appointed to replace a disqualified master.

Section 6. The hearing shall be electronically recorded with facilities provided by the Alaska Court System. Deposition testimony may be received as provided in the Alaska Rules of Civil Procedure. The record may be destroyed two years following the last date upon which administrative appeal rights may be available under the provisions of this rule.

Section 7. The applicant shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues, even if not covered in direct examination, to impeach any witness regardless of which party called him, and to rebut the evidence against him. The applicant may be called and examined as if under cross-examination whether or not he testifies on his own behalf. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient standing alone to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are required by civil rules to be recognized. Irrelevant and unduly repetitious evidence shall be excluded. The sworn testimony of a witness subpoenaed under these rules shall be deemed testimony received in a judicial proceeding. In any action for defamation arising out of such sworn testimony the witness shall be entitled to the defense of privilege to the same extent available to witnesses in judicial proceedings within the State of Alaska.

Section 8. The master shall prepare in writing a proposed decision supported by findings of fact and conclusions of law.

Section 9. In cases in which a majority of the Board was not present during the evidentiary hearing, the master shall file the proposed decision with the Board and cause the entire record to be certified to the Board for decision. Copies of the proposed decision shall be served by the master on the applicant or his attorney of record and on the Executive Director. Within twenty days after service of the proposed decision, the applicant and the Executive Director may file exceptions and briefs and, upon request, may appear and present oral argument to the Board. Copies of exceptions and briefs, when filed, shall be served on the applicant or the Executive Director, as the case may be.

Section 10. The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision by the Board and, upon payment of costs, shall be made available to the applicant.

Section 11. The Board may adopt the proposed findings, conclusions and decision of the master in whole or in part, or reject it in its entirety and adopt its own findings of fact and conclusions of law and decision.

Section 12. The findings of fact, conclusions of law and decision of the Board shall be conclusive as to the matter alleged in applicant's statement of appeal unless an appeal to the Supreme Court shall be filed within thirty days following service upon applicant of the findings of fact, conclusions of law and decision in the manner provided by these rules.

**RULE 8: SUPREME COURT REVIEW**

Section 1. An Appeal to the Supreme Court may be filed by an applicant from a decision of the Board entered as provided in Section 12 of Rule 7.

Section 2. To the extent practicable the procedure governing an appeal by an applicant for admission to the practice of law from a decision of the Board of Governors shall be governed by the rules of practice in civil matters set forth in Part IV, ALASKA SUPREME COURT RULES.

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 161

Amendment #1  
Amending Alaska Bar  
Rules, Part I, Rule,  
2, Section 2

IT IS ORDERED:

Section 2, Rule 2, Part I of the Alaska Bar Rules  
is amended to read as follows:

Section 2. An applicant who meets the  
requirements (a) through (f) of Section 1  
of this Rule and

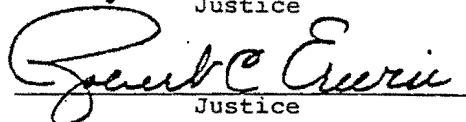
(a) Has passed a written examination  
required by another state, territory or  
the District of Columbia for admission  
to the practice of law, and

(b) Has engaged as a licensed attorney  
in the active practice of law in one or  
more states, territories or the District  
of Columbia for five of the seven years  
immediately preceding the date of his  
first or subsequent applications for  
admission to the practice of law, may,  
on the date of filing the application  
request examination as an attorney  
applicant. An applicant qualified for  
examination as an attorney applicant  
shall be required to pass the attorney  
bar examination prescribed by the Board.  
(Added by Supreme Court Order 161  
effective immediately)

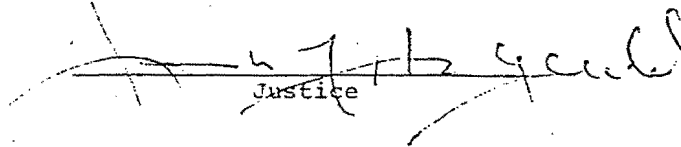
Effective date: April 12, 1974.

  
Chief Justice

  
Justice

  
Justice

  
Justice

  
Justice