

Rule 51.5. Certification by the committee on functional equivalency.

1. **Certification prior to application.** A prospective applicant who fails to meet the accreditation requirement of Rule 51(1)(c) shall not be permitted to apply for admission to practice law unless the committee on functional equivalency certifies that he or she has met the qualifications set forth in this rule. To request certification, a prospective applicant must petition the committee on functional equivalency in accordance with the provisions of this rule and the policies and procedures of the committee.

Only prospective applicants satisfying the qualifications set forth in paragraphs (a), (b), or (c) of this subsection may petition for such certification. A prospective applicant must include with the petition satisfactory evidence that he or she meets these qualifications; otherwise the petition shall be summarily denied, without review.

The following qualifications are required for certification:

(a) Graduation from an unaccredited law school within the American Bar Association's accreditation jurisdiction and satisfactory evidence that:

(1) the petitioner has been admitted to practice law in any jurisdiction, including another state of the United States of America, a territory of the United States of America, the District of Columbia, or a foreign country; and

(2) the petitioner has been, for at least ten of the preceding twelve years, lawfully engaged in the full-time practice of law in the jurisdiction where the petitioner is admitted to practice law or in any other jurisdiction, provided that if the legal work experience takes place in a foreign country, it is a country where the English common law substantially forms the basis of that country's jurisprudence, and where English is the language of instruction and practice in the courts of that jurisdiction; and

(3) the petitioner's legal education, as augmented by such subsequent legal work experience, is now functionally equivalent to an education provided by a law school accredited by the American Bar Association.

(b) Graduation from a law school that was not accredited by the American Bar Association at the time of the petitioner's graduation but which has since achieved accreditation and satisfactory evidence that:

(1) the law school achieved American Bar Association accreditation no more than 3 years after the petitioner's graduation; and

(2) the legal education received is functionally equivalent to an education provided by a law school accredited by the American Bar Association.

(c) Graduation from a foreign law school outside the accreditation jurisdiction of the American Bar Association and satisfactory evidence that the petitioner either:

(1) meets the requirements of Rule 51.5(1)(a) above; or

(2) received a legal education that is functionally equivalent to an education provided by a law school accredited by the American Bar Association.

2. **Practice of law.** For purposes of this rule, the term "practice of law" shall mean:

(a) private practice as a sole practitioner or for a law firm, legal services office, legal clinic or the like;

(b) practice as an attorney for an individual, a corporation, partnership, trust, or other entity, with the primary duties of furnishing legal counsel, researching legal issues, drafting legal documents, pleadings, and memoranda, interpreting and giving advice regarding the law, or preparing, trying or presenting cases before courts, departments of government or administrative agencies;

(c) practice as an attorney for the federal government or for a state government with the same primary duties described in paragraph (b) of this subsection;

(d) employment as a judge, magistrate, referee, arbitrator, mediator, or similar official, provided that such employment is available only to licensed attorneys;

(e) legal service in the armed forces of the United States;

(f) employment as a full-time teacher of law at a law school accredited by the American Bar Association; or

(g) any combination of the above.

3. **Filing.** A petition for certification under this rule must be filed with the admissions director no later than September 1 of the year prior to the year in which the petitioner seeks to sit for the bar examination. The petition must be verified, and shall contain a statement of facts accompanied by copies of all relevant documents, a statement of each ground upon which relief is alleged to be warranted, and legal points and authorities, setting forth the legal basis for each ground for the relief requested.

4. **Refer to committee on moral character and fitness.** If the committee has noted questions relating to the petitioner's ability to meet the moral character and fitness requirements of Rule 51(4), (5), (6), (7), (8), or (9), the committee may recommend to the board of bar examiners that the petitioner be referred to the committee on moral character and fitness for further investigation and/or hearings prior to review by the committee on functional equivalency.

5. **Favorable recommendation.** If the committee on functional equivalency recommends that certification be granted, the committee shall file a report with the board of bar examiners, together with proof of service by mail on the petitioner, certifying to the board of bar examiners that the petitioner has met the qualifications set forth in subsection 1(a), 1(b), or 1(c) of this rule. Service by mail shall be complete upon mailing. The report shall be filed with the board of bar examiners within 30 days of the conclusion of any hearing, unless otherwise ordered by the board of bar examiners. Upon such a certification, the board of bar examiners shall permit the petitioner to apply for admission, unless the board determines that further investigation is necessary. The petitioner may, in the board's discretion, be permitted to sit for the bar examination if the petitioner meets all other applicable requirements.

6. **Adverse recommendation.** If the committee on functional equivalency recommends that certification be denied, the committee shall file a report with the board of bar examiners, together with proof of service by mail on the petitioner, describing the basis for its adverse recommendation. Service by mail shall be complete upon mailing. The report shall be filed with the board of bar examiners within 30 days of the conclusion of any hearing, unless otherwise ordered by the board of bar examiners. Absent a timely verified petition for review filed in accordance with this rule, the board of bar examiners shall approve the adverse recommendation of the committee, unless the board of bar examiners determines that further investigation is necessary.

7. **Notice and review.** Any petitioner notified of an adverse decision may, within 15 days from the date of service of the decision, file a verified petition for review with the supreme court, which shall be accompanied by proof of service of a copy upon the admissions director of the state bar, the chair of the board of bar examiners, and the chair of the functional equivalency committee. Service by mail shall be complete upon mailing. Such petition shall contain any relevant documentation necessary for the court's understanding of the matter, a statement of facts supported by adequate citation to any record, and legal points and authorities setting forth the legal basis for each ground upon which the committee's recommendation is alleged to be erroneous.

Within 15 days of service of any verified petition, the board of bar examiners shall submit the committee's report to the court. Additionally, within 15 days of service of any verified petition, the board of bar examiners and/or the committee on functional equivalency, or their representative, may file an answer to any issues raised in the petition. If the court is of the opinion that the committee's recommendation should not be disturbed, it may deny the petition. Should the court determine that the petitioner is entitled to relief, it may direct the board of bar examiners to permit the petitioner to file an application for admission and to process the application in accordance with Supreme Court Rules 49 to 75.

8. **Burden of proof.** In any proceeding before the committee on functional equivalency, or before the court, the petitioner shall have the burden of proving that he or she meets the qualifications set forth in subsection 1(a), 1(b), or 1(c) of this rule. Should a petitioner fail to meet this burden of proof, the committee shall refuse to certify that the petitioner meets the requirements of this rule, and the court shall refuse to disturb the adverse recommendation of the committee.

Addendum 2.
Policies and Procedures of the
Functional Equivalency Committee

1. *Number of Members on the Committee.* By order filed September 29, 1993, ADKT No. 171, the Supreme Court of Nevada created the Committee on Functional Equivalency ("committee"). The committee was formally codified in Supreme Court Rule 49 in 1996. The committee is composed of seven members who are active members of the State Bar of Nevada. Four of the members are appointed by the Supreme Court of Nevada ("Court"), and three members are appointed by the Board of Governors. The Chair will be selected by the Court from the appointed members.

2. *Terms of Office.* The terms of the members of the committee shall be three years. There is no limit on the number of terms an attorney may serve on the committee.

3. *Responsibilities and Powers of the Committee.* The committee shall have all those powers and duties delegated under the Nevada Supreme Court Rules to the Board of Bar Examiners relating to the conduct of investigations and hearings, and the submission of reports and recommendations to the Board of Bar Examiners and the Court respecting those petitioners seeking certification in accordance with SCR 51.5.

A. *Chair.* The chair will be selected by the Court from the committee members and is responsible for ensuring that petitions for certification of the qualifications set forth in SCR 51.5 are processed in accordance with the Supreme Court Rules and the policies and procedures of the committee as set forth herein.

B. *Vice-Chair.* The vice-chair is to be appointed by the committee and shall take on the duties and responsibilities of the chair in his/her absence.

4. *Quorum.* No less than four of the seven members of the committee, meeting either in person or by telephone conference, shall constitute a quorum for the purposes of a hearing. Committee decisions and recommendations require a majority vote of those in attendance.

5. *Certification Procedure.* Before submitting an application for examination for a license to practice in Nevada, a prospective applicant who has received a degree of bachelor of laws or an equivalent law degree from a law school that has not been approved by the Committee on Legal Education and Admissions to the Bar of the American Bar Association as required by SCR 51(c) must first obtain certification by the committee that the prospective applicant has met the qualifications set forth in SCR 51.5 ("certification"). Applications for admission submitted without prior certification shall immediately be rejected and the application fee shall not be refunded.

To apply for certification, a prospective applicant who has met the standards set forth in SCR 51.5 must submit to the Director of Admissions an original and two (2) copies of a verified petition for certification under SCR 51.5, together with a \$750.00 filing fee, and proof of service of the petition on the chair of the committee. The chair may be served at the office of the State Bar of Nevada. The petition must be filed no later than September 1 of the year prior to the year in which the petitioner seeks to sit for the bar examination, and shall contain a statement of facts accompanied by copies of all relevant documents, a statement of each ground upon which relief is alleged to be warranted, and legal points and authorities, setting forth the legal basis for each ground for the relief requested.

In this petition, the burden of proof shall be upon the petitioner, without imposing an excessive burden on the committee, to demonstrate that he or she meets the qualifications set forth in subsection 1(a), 1(b), or 1(c) of SCR 51.5.

Listed below are the minimum qualifications that will be considered by the committee in its investigation. Petitioners shall provide the committee with evidence addressing the following applicable items:

1. Quality of Law School (profit vs. non-profit, correspondence vs. attendance, etc.)
2. Curriculum (courses taken, content, common law subjects, length of classes for individual sessions, semester or other term, participation required, moot court, etc.)
3. Faculty (number of full-time faculty members, faculty/student ratio, professional credentials, availability of faculty to students after class, etc.)
4. Admission Standards (requirement of LSAT or equivalent, average GPA, BA/BS required or AA acceptable, number of students, etc.)
5. Resources and Research Facilities (library facility, number of volumes in library, types of volumes in library, study facilities, etc.)
6. Physical Plant (size, classroom size, moot court facilities, offices for faculty, separation of law school from general university, etc.)
7. Existing Accreditation, Prior Accreditation History or Attempt (prior ABA accreditation or provisional accreditation, attempt at ABA accreditation, accreditation of foreign law school by agency analogous to ABA, etc.)
8. Evidence of experience in the full-time practice of law in any state of the United States of America, a territory of the United States of America, the District of Columbia, or a foreign country for at least ten of the preceding twelve years. Such evidence should include, but not be limited to: a sworn affidavit detailing the nature and extent of the petitioner's legal work experience during the time the petitioner claims to have engaged in the full-time practice of law; legal memoranda prepared by the petitioner; copies of published cases resulting from the petitioner's pleadings and/or pleadings and papers filed by the petitioner in his/her capacity as an attorney and counselor at law as a sole practitioner or for a law firm, legal services office, legal clinic or the like, or as an attorney for an individual, a corporation, partnership, trust; and/or letters of reference from the bench and bar in the jurisdiction in which the petitioner has been engaged in the practice of law.

The above listing is not meant to be exhaustive. Rather, it is illustrative of the minimum qualifications that the committee will consider in determining whether the petitioner has met the qualifications set forth in SCR 51.5.

6. Fees and Expenses. Verified petitions for certification shall be accompanied by a \$750 filing fee which shall be paid to the State Bar of Nevada. The filing fee shall cover those costs which in the opinion of the committee are reasonably necessary to conduct investigations and to hold hearings. Costs under this rule shall include, without limitation, the cost of court reporters, consultants, experts, telephone and telecopy, as well as transportation, meals and lodging incurred by the members of the committee in the furtherance of its investigation.

In the event the initial filing fee shall prove to be inadequate to cover the actual costs of the investigation and hearings, an invoice shall be served on the petitioner. Within ten (10) days of service of the invoice, the petitioner shall pay the additional invoiced amount to the state bar. Failure to pay the filing fee or any subsequent invoiced costs under this rule shall result in denial of the petition.

7. Hearings. In accordance with SCR 57, the committee may, in conducting its investigations, take and hear relevant evidence, administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers and documents, subject to the Supreme Court Rules.

Upon payment of the filing fee and estimated expenses, the committee shall review such evidence and conduct such hearings as it deems necessary to investigate the grounds asserted by the petitioner and to make a determination whether the petitioner has met the qualifications set forth in SCR 51.5. The petitioner shall be entitled to notice as set forth in section 8 below, and to be present, together with counsel, if desired, to present evidence to substantiate the claim. The petitioner shall also be entitled to all rights and privileges as are set forth in the Supreme Court Rules relating to the conduct of investigations and hearings. In any proceeding before the committee, the petitioner shall bear the burden

of proof to demonstrate that the petitioner meets the qualifications as set forth in SCR 51.5.

8. Notice. In accordance with SCR 59, whenever a petitioner is required to appear before the committee the petitioner shall be entitled to five (5) days' notice thereof if served personally, and ten (10) days' notice if served by mail at the petitioner's last-known address.

9. Recommendation to the Board of Bar Examiners. On or before January 1 of the year in which the petitioner seeks to sit for the bar examination, the committee shall make a determination whether the petitioner meets the qualifications as set forth in SCR 51.5. If the committee has noted questions relating to the petitioner's ability to meet the moral character and fitness requirements of SCR 51(1), the committee may recommend to the Board of Bar Examiners that the petitioner be referred to the committee on moral character and fitness for further investigation and/or hearings prior to review by the committee.

A. Favorable Recommendation. If the committee recommends that certification be granted in accordance with S.C.R. 51.5, the committee shall reduce such recommendation to writing and shall transmit to the Board of Bar Examiners, together with proof of service by mail on the petitioner, its certification that the petitioner has met the qualifications set forth in SCR 51.5(1)(a), (b), or (c). Service shall be complete upon mailing. The report shall be filed with the Board of Bar Examiners within thirty (30) days of the conclusion of any hearing, unless otherwise ordered by the Board of Bar Examiners. Upon receipt of such certification, the Board of Bar Examiners shall permit the petitioner to apply for admission, unless the Board determines that further investigation is necessary. The petitioner may, in the Board's discretion, be permitted to sit for the bar examination if the petitioner meets all other applicable requirements.

B. Adverse Recommendation. If the committee recommends that certification be denied based upon its determination that the petitioner has not met the qualifications set forth in SCR 51.5, the committee shall file a report with the Board of Bar Examiners, together with proof of service by mail on the petitioner, describing the basis for the committee's adverse recommendation. Service shall be complete upon mailing. The report shall be filed with the Board of Bar Examiners, within thirty (30) days of the conclusion of any hearing, unless otherwise ordered by the Board of Bar Examiners. Absent a timely verified petition for review filed in accordance with section 10 below and SCR 51.5(7), the Board of Bar Examiners shall approve the adverse recommendation of the committee, unless the Board of Bar Examiners determines that further investigation is necessary.

10. Procedure for Review by the Supreme Court. If the committee recommends to the Board of Bar Examiners that a petitioner be denied certification, the petitioner may, within fifteen (15) days from the date of service of such report, file an original and two (2) copies of a verified petition for relief with the Supreme Court, which shall be accompanied by a non-refundable \$200 filing fee and proof of service of a copy upon the Director of Admissions of the state bar, the chair of the Board of Bar Examiners, and the chair of the Functional Equivalency Committee. Such petition shall contain any relevant documentation necessary for the Court's understanding of the matter, a statement of facts supported by adequate citation to any record, and legal points and authorities setting forth the legal basis for each ground upon which the committee's recommendation is alleged to be erroneous.

Within fifteen (15) days of service of any verified petition, the Board of Bar Examiners shall file the committee's report with the Court. Additionally, within fifteen (15) days of service of any verified petition, the Board of Bar Examiners and/or the committee, or their representative may file a supplement to the committee's report addressing any issues raised in the petition.

If the Court is of the opinion that the committee's recommendation should not be disturbed, it may deny the petition. Otherwise, the Court may enter an order fixing the time within which an answer may be filed by the committee, if the committee has not already filed an answer. Should the Court determine that the petitioner is entitled to relief, it may direct the Board of Bar Examiners to permit the petitioner to file an application for admission and to process the application in accordance with Supreme Court Rules 49 to 75.