

**OPEN SESSION**  
**AGENDA ITEM**

**54-131 NOVEMBER 2018**  
**Programs III.A.**

**DATE:** November 15, 2018

**TO:** **Members, Programs Committee**  
**Members, Board of Trustees**

**FROM:** Amy C Nuñez, Director, Office of Admissions  
Destie Overpeck, Office of General Counsel  
Elizabeth Hom, Office of Access and Inclusion

**SUBJECT:** Revisions to the Special Admissions Rules - Return from Public Comment and Request for Submission to the California Supreme Court for Approval

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**EXECUTIVE SUMMARY**

State Bar staff developed a set of proposed rule changes aimed at increasing access to legal services in response to a directive established by the Board of Trustees. At its January 2018 annual strategic planning session, the Board discussed reviewing special admissions rules with an eye toward expanding access to legal services in California.

Staff examined the California Rules of Court and the Rules of the State Bar for special admissions to identify aspects of the rules that may present unnecessary roadblocks to gain special admission. At the direction of the Chair and Vice-Chair of the Programs Committee, staff also reviewed whether a new special admissions program would be appropriate for military spouses.

In September 2018, the Programs Committee approved circulating for a 45-day public comments proposals to modify California Rules of Court and State Bar Rules governing Registered In-House Counsel (RIHC), Registered Legal Aid Attorneys (RLAA), Registered Foreign Legal Consultants (RFLC), and a proposed Rule of Court and State Bar Rules allowing for special admissions for Registered Military Spouse Attorneys (RMSA). Fifty-one comments were received, most relating to the RMSA proposal. Staff reviewed all of the comments and made minor non-substantive revisions to the rules, which are attached to this agenda item, and now recommend Board adoption of the proposals.

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**BACKGROUND**

Special Admissions rules govern the extent to which those not formally admitted to the State Bar of California may practice in California. They include the following categories:

Registered In-House Counsel (RIHC), governed by Rule 9.46 of the Rules of Court, are non-California attorneys from other U.S. jurisdictions who meet certain qualifications. They may register with the State Bar and are then allowed to practice as in-house counsel in California for a qualifying institution. The work of RIHC is limited to providing legal services in California only to the qualifying institution that employs them. RIHC are not permitted to make court appearances in California state courts or to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution.

Registered Legal Services Attorneys (RLSA), governed by Rule 9.45 of the Rules of Court, must register with the State Bar and work under the supervision of a California attorney, but are employed by a California-based organization that provides legal aid services in the state. The rules pertaining to both RLSA and RIHC require that the attorney be well versed in California law, applicable case law and rules regarding ethical conduct. Both are required to apply for moral character determination.

Registered Foreign Legal Consultants (RFLC), governed by Rule 9.44 of the Rules of Court, are attorneys licensed in another country to provide legal advice in California exclusively regarding the law of their foreign jurisdiction.

Registered Military Spouse Attorneys (RMSA) would be a new category for special admissions, governed by proposed Rule 9.41.1 of the Rules of Court. In 2011, the Military Spouse J.D. Network was established to aid the spouses of military service members in finding employment as attorneys in the state or territory to which their active military spouse has been assigned. Currently, there are 32 states that have incorporated a special admissions policy for military spouses. California, however, does not currently have any special admissions rules unique to military spouses.

Public input: On August 17, 2018, this item was presented to the Board of Trustees' Programs Committee as an informational item for their review and input. Staff discussed comments received from a working group of the California Commission on Access to Justice, the Military Spouse J.D. Network, and the Association of Corporate Counsel (ACC). ACC representatives also provided public comment during the meeting. On August 24, 2018, staff presented the item to the Committee of Bar Examiners for their feedback. Staff incorporated feedback and presented to the Programs Committee on September 13, at which point the Programs Committee approved that the proposals be circulated for a 45-day public comment period. That public comment period ended on November 5th and a total of 51 comments were received.

## **DISCUSSION**

Staff reviewed all special admissions rules to identify whether changes were needed to support increased access to legal services or for other reasons. The proposals presented for public comment recommended revisions to the RIHC, RLAA and RFLC Rules of Court and State Bar Rules, and proposed adopting a special admissions Rule of Court and State Bar Rules for RMSA.

### **Registered In-House Counsel**

The proposed modifications for the rules related to RIHC address the following areas:

- The size of the employer. Currently to qualify under the RIHC program, the applicant must be proposing to work for a corporation, partnership, association or other legal entity that employs 10 employees or 1 full time California attorney. The proposal reduces the size of a qualifying entity from 10 to 5 employees, and clarifies that the qualifying employer is required to have an office located in California, but that the 5 employees could be located in any of its offices.

- Defining “reside in California.” A definition has been added to Rule 3.370 of the Rules of the State Bar to clarify that the RIHC must live or be located in California on more than a temporary or transient basis.

- Status of attorney in their home state. Rule 9.46(a)(2)(C) of the Rules of Court makes eligible for participation in the RIHC program only those who have not been disbarred, have not resigned with charges pending and not having been “suspended.” The goal of this prohibition appears to be to restrict attorney applicants who have been disciplined in the state where they have practiced. The proposal clarifies that the attorney cannot have been suspended from practicing law for disciplinary misconduct; making eligible applicants who may have been administratively suspended for non-disciplinary actions, such as for non-payment of fees.

- Authority to provide pro bono services. Language was added to allow the RIHC the ability to provide pro bono services for eligible legal aid organizations or the institution that employs them. This eliminates the requirement to submit a separate application to serve as a Registered Legal Services Attorney (now to be referred to as a Registered Legal Aid Attorney, RLAA) and to pay registration fees for participation as an RLAA. The amendment also expressly permits the RIHC to provide pro bono services through his or her employer, not just through a legal aid agency. If the RIHC provides pro bono services, it must be performed under supervision of a California attorney.

- Fingerprinting. Rule 9.46(d)(1) of the Rules of Court is proposed to be amended to require all RIHC applicants to comply with the fingerprinting requirement of Rule 9.9.5. The suspension and termination sections of the Rules of the State Bar have been revised to clarify that an attorney whose registration has been terminated is not permitted to practice law in California and needs to submit a new application and comply with Rule 9.9.5 to register as In-House Counsel.

- Clarifications. The rules are clarified to distinguish between suspension and termination, and updated to reflect the terms “licensee” and “Board of Trustees.”<sup>1</sup>

### **Registered Legal Services Attorneys**

The proposed modifications for the rules related to the RLAA program address the following areas:

- Name change. These attorneys will be referred to as Registered Legal Aid Attorneys (RLAA) instead of Registered Legal Services Attorneys.

- Definition of qualifying legal aid entity. The definition of qualifying legal service provider was modified to expand from only those eligible for IOLTA funding to more broadly include nonprofit legal aid entities and nonprofit law schools that provide civil legal aid. The proposal also removes the limitation that the entity be based solely in California.

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<sup>1</sup> The Supreme Court adopted amendments to title 9 of the California Rules of Court on October 25, 2018. The amendments included updating all of the title 9 rules to reflect the terms “licensee” and “Board of Trustees.” The revised Rules of Court will be effective on January 1, 2019.

- Status of attorney in their home state. The language in Rule 9.45(a)(2)(C) of the Rules of Court makes eligible for participation in the RLAA program only those who have not been disbarred, have not resigned with charges pending and not having been “suspended.” The goal of this prohibition appears to be to restrict attorney applicants who have been disciplined in the state where they have practiced. The proposal clarifies that the attorney cannot have been suspended from practicing law for disciplinary misconduct; making eligible applicants who may have been administratively suspended for nondisciplinary actions, such as for non-payment of fees.

- Length of Time as an RLAA. Rule 9.45(e) of the Rules of Court extends from three to five years the maximum period in which an individual may practice as an RLAA, thereby making it easier to continue serving in this role, and providing an incentive for individuals to apply for such a role. The rule also incentivizes future attempts to take and pass the California Bar Examination and pursue admission to the State Bar of California.

- Expanding access to legal services. The proposed modifications address concerns that the existing rules limit an RLAA to providing services for one legal aid entity. Although requiring the RLAA to submit an application for each entity for which he or she will be working, the proposal seeks to expand access by allowing the RLAA the ability to work at multiple eligible legal aid organizations, as long as they are approved by the State Bar and the supervising attorney signs a declaration.

- Supervision of RLAA. The existing requirement for an RLAA to be supervised by a California-licensed attorney is intended to ensure public protection and prevent the Unauthorized Practice of Law by someone not admitted to the State Bar of California. The supervision provisions have been revised to clarify that the supervising attorney must approve in writing any appearance in court, deposition, arbitration or other proceeding to the extent required for the protection of the client or customer. Given the absence of a California law license and that this classification requires that the attorney is well versed in California laws, applicable case law and rules regarding ethical conduct, supervision by a California licensed attorney is appropriate.

- Fingerprinting. Rule 9.45(d)(1) of the Rules of Court is proposed to be amended to require all RLAA applicants to comply with the fingerprinting requirement of Rule 9.9.5. The suspension and termination sections of the Rules of the State Bar have been revised to clarify that an attorney whose registration has been terminated is not permitted to practice law in California and needs to submit a new application and comply with Rule 9.9.5 to register as a Legal Aid Attorney.

- Clarifications. The rules are clarified to distinguish between suspension and termination, and updated to reflect the terms “licensee” and “Board of Trustees.”

### **Registered Military Spouse Attorneys**

The proposed new RMSA Rule is drafted to largely conform with the RIHC and RLAA rules, and in that way does not adhere precisely to the model rule being circulated by the Military Spouse J.D. Network. The proposed rules address the following areas:

- The definition of spouse. The definition of spouse conforms to the California law, which allows civil unions and domestic partners the same liberties as spouses.

- Express statement that pro bono service is permitted. As a means of encouraging military spouses to participate in pro bono activities, the proposed rule includes an express reference to allowable pro bono service. This language is consistent with the rules governing RIHC and RLAA.

- Status of attorney in their home state. The proposed rules provide that RMSA must not have been disbarred, resigned with charges pending, or suspended from practicing law for disciplinary misconduct in any other jurisdiction. Also, once an applicant has registered and been accepted as a Military Spouse Attorney he/she may continue to take the bar exam without fear of losing eligibility.

- Supervision required. The requirement for an RMSA to be supervised by a California-licensed attorney is intended to ensure public protection. The supervision provisions require the supervising attorney to be an active licensee in good standing of the State Bar of California who has been admitted to the practice of law for two years or more. The supervising attorney must approve in writing any appearance in court, deposition, arbitration or other proceeding to the extent required for the protection of the client or customer. The supervising attorney must also read, approve and personally sign any pleadings, briefs, or other similar documents prepared by the RMSA. The requirements for the attorney supervising the RMSA are identical to the requirements for the RLAA program, except for the additional requirement that the supervisor must agree to assume control of the work of the RMSA in the event the RMSA is terminated.

- Unlike the RIHC (who may only providing legal services in California for the qualifying institution that employs them) and RLAA (who are employed by a California-based organization that provides legal aid services in the state), the RMSA is permitted to practice law in California, under supervision, in all forms of legal practice that are permissible for a licensed attorney of the State Bar of California, including pro bono legal services.

### **Registered Foreign Legal Consultants**

(The Supreme Court revised the title 9 of the Rules of Court on October 25, 2018. The proposed revisions to Rule 9.44 were adopted and will be effective on January 1, 2019.) The proposed modifications for the rules related to the RFLC program address the following areas:

- Fingerprinting. Rules of Court, rule 9.44(c)(2) is proposed to be amended to require all RFLC applicants to comply with the fingerprinting requirement of rule 9.9.5. The suspension and termination sections of the Rules of the State Bar have been revised to clarify that an attorney whose registration has been terminated is not permitted to practice law in California and needs to submit a new application and comply with Rules of Court, rule 9.9.5 to register as a foreign legal consultant.

- Clarifications. The rules are clarified to distinguish between suspension and termination, and updated to reflect the terms “licensee” and “Board of Trustees.”

## Public Comments

A total of 51 comments were received as reflected in the chart below. The individuals or entities that submitted comments are listed in Attachment L.

<b>Special Admissions Rules Pertaining</b>	<b>Public Comments Received</b>
Rule 9.41.1 Registered Military Spouse Attorney – In favor of the rule as proposed	8
Rule 9.41.1 Registered Military Spouse Attorney – Alternative proposed in lieu of supervision requirement	1
Rule 9.41.1 Registered Military Spouse Attorney – Oppose Mandatory Supervision	36
Rule 9.45 Registered Legal Aid Attorney – Oppose Mandatory Supervision	1
Rule 9.45 Registered Legal Aid Attorney – In favor of the rule as proposed	2
Rule 9.46 Registered In-House Counsel – No requirements to be admitted in California if experienced attorney from another jurisdiction.	1
Rule 9.46 Registered In-House Counsel – In favor of the rule as proposed	2

## Response to Public Comments

The vast majority of comments received concern the supervision requirement for the new RMSA special admissions category.

As described above, staff believes that the supervision requirement is essential for public protection. In 2002, the Supreme Court of California formed the Multijurisdictional Practice Implementation Committee, which was charged with drafting the rules that would expand the circumstances under which attorneys licensed to practice law in jurisdictions in the United States other than California (“out-of-state” attorneys) are permitted to practice in California. The Implementation Committee developed and proposed the original RIHC and RLAA rules. In 2004, the Implementation Committee prepared a report<sup>2</sup> documenting public comments received in response to the proposals, including comments that the provisions for supervision of RLAA were unnecessarily restrictive. The Committee insisted that public protection was a critical component of these sets of rules. They stated, “Many individuals who will benefit from the work of registered legal services attorneys are often not in a position to critically assess the quality of legal services; therefore, the Implementation Committee included safeguards in rule 964. First and foremost, registered legal services attorneys will be subject to oversight by a designated supervisor, who must be an experienced California lawyer and must assume professional responsibility for the legal services provided by the registered attorney. In particular, the supervisor must provide assistance, counsel, and direct supervision sufficient to protect all clients who receive legal representation under this rule.”

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<sup>2</sup> *Report of The California Supreme Court Multijurisdictional Practice Implementation Committee Final Report and Proposed Rules*, March 10, 2004 Supreme Court of California.

State Bar staff believes that the comments of the Implementation Committee are no less true today than they were in 2004. The supervision requirements in the existing rules, and their extension to the RMSA category, are necessary consumer and public protection elements. The fact that the State Bar has declared someone eligible to practice law in this State is not taken lightly by consumers. Staff believes that consumers will not necessarily understand that the individual they hire may not be as well versed in California law as California licensed attorneys, and are in this way relying on the fact that the RMSA has been deemed eligible by the State of California to practice law. The supervision requirement is necessary to ensure the quality of services provided. The requirements for the attorney supervising the RMSA are identical to the requirements for the RLAA program, except for the additional requirement that the supervisor must agree to assume control of the work of the RMSA in the event the RMSA is terminated.

Staff therefore did not amend the proposal to remove the supervision requirement for the RMSA or the RLAA. The proposed Rule of Court requires direct supervision, including approving in writing any appearance in court, deposition, arbitration, or any proceeding by the RMSA, to the extent required for the protection of the client or customer. This allows flexibility in supervision based on the experience of the RMSA, while still providing public protection. Some commenters suggested that the requirement that the special admissions attorneys must follow the Rules of Professional Conduct would provide adequate public protection. However, the Rules of Professional Conduct govern attorney ethics; they do not prevent unintentional attorney malpractice. Given the potential lack of experience with California law, staff recommends that the proposed supervision language for the RMSA remain as a requirement in the Rule of Court.

With regard to the comment that an experienced attorney from another jurisdiction should be allowed to practice law in California as an in-house attorney with no additional requirements (and should not be required to take the California bar examination), staff rejected this suggestion based on public protection grounds. The proposed RIHC rules allow a non-California attorney to work as a RIHC for a qualifying institution that have as few as five full time employees, as long as the RIHC complies with the RIHC rules. Because an RIHC has not passed the California bar examination and may not be familiar with California law, these rules protect the public by limiting the legal services to those provided for the qualifying institution and prohibiting court appearances.

Minor, non-substantive amendments were made to the version circulated for public comment to correct a cross-reference and clarify grammar.

## **FISCAL/PERSONNEL IMPACT**

None

## **RULE AMENDMENTS**

Title 3, Division 3, Chapter 1, Rules 3.370, 3.371, 3.372, 3.373, 3.374, 3.375, 3.376, and 3.377.

Title 3, Division 3, Chapter 1, Rules 3.360, 3.361, 3.362, 3.363, 3.364, 3.365, 3.366, and 3.367.

Title 3, Division 3, Chapter 4, Rules 3.408 and 3.409.

Title 3, Division 3, Chapter 1, Rules 3.350, 3.351, 3.352, 3.353, 3.354, 3.355, and 3.356.

## **BOARD BOOK AMENDMENTS**

None

## **STRATEGIC PLAN GOALS & OBJECTIVES**

Goal: 2. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licenses in California.

Objective: q. No later than December 31, 2018, review special admissions rules to determine whether changes are needed to support the goal of increased access to legal services or for other reasons, and implement needed changes.

## **RECOMMENDATION**

**It is recommended that the Programs Committee and Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees hereby authorizes staff to submit to the California Supreme Court for approval:

- proposed amendments to Rules of Court, rule 9.46, Registered In-House Counsel, Attachment A;
- proposed amendments to Rules of Court, rule 9.45, Registered Legal Aid Attorneys, Attachment C;
- proposed amendments to Rules of Court, rule 9.44, Registered Foreign Legal Consultant, Attachment E;
- proposed Rules of Court, rule 9.41.1, Registered Military Spouse Attorney, Attachment G; and that it is

**FURTHER RESOLVED**, that the Board of Trustees hereby approve and adopt:

- proposed amendments to Rules of the State Bar, rules 3.370 – 3.377 (RIHC), Attachment B;
- proposed amendments to Rules of the State Bar, rules 3.360 – 3.367 (RLAA), Attachment D;
- proposed amendments to Rules of the State Bar, rules 3.400 – 3.411 (RFLC), Attachment F;
- proposed Rules of the State Bar, rules 3.350 – 3.356 (RMSA), Attachment H;
- proposed Rules of the State Bar, Appendix A re. Title 3, Division 3, Chapter 1, Article 1, Attachment I;
- proposed amendments to Rules of the State Bar, Appendix A re. Title 3, Division 3, Chapter 1, Article 2, Attachment J, and
- proposed amendments to Rules of the State Bar, Appendix A re. Title 3, Division 3, Chapter 1, Article 3, Attachment K;

and request that the Supreme Court review and approve these State Bar Rules.

## **ATTACHMENT(S) LIST**

- A.** Proposed amendments to Rules of Court, rule 9.46, Registered In-House Counsel.
- B.** Proposed amendments to Rules of the State Bar, rules 3.370 – 3.377, Registered In-House Counsel.
- C.** Proposed amendments to Rules of Court, rule 9.45, Registered Legal Aid Attorneys.



- D.** Proposed amendments to Rules of the State Bar, rules 3.360 – 3.367, Registered Legal Aid Attorneys.
- E.** Proposed amendments to Rules of Court, rule 9.44, Registered Foreign Legal Consultant.
- F.** Proposed amendments to Rules of the State Bar, rules 3.400 – 3.411, Registered Foreign Legal Consultants.
- G.** Proposed Rules of Court, rule 9.41.1, Registered Military Spouse Attorney.
- H.** Proposed Rules of the State Bar, rules 3.350 – 3.356, Registered Military Spouse Attorney.
- I.** Proposed Rules of the State Bar, Appendix A re. Title 3, Division 3, Chapter 1, Article 1.
- J.** Proposed amendments to Rules of the State Bar, Appendix A re. Title 3, Division 3, Chapter 1, Article 2.
- K.** Proposed amendments to Rules of the State Bar, Appendix A re. Title 3, Division 3, Chapter 1, Article 3.
- L.** List of individuals and entities that made public comments.

## Rule 9.46. Registered in-house counsel [9/05/2018]

### (a) Definitions

The following definitions apply to terms used in this rule:

- (1) "Qualifying institution" means a corporation, a partnership, an association, or other legal entity, including its subsidiaries and organizational affiliates, which has an office located in California. Neither a governmental entity nor an entity that provides legal services to others can be a qualifying institution for purposes of this rule. A qualifying institution must:
  - (A) Employ at least ~~40~~ 5 full time employees full time in California; or
  - (B) Employ in California an attorney who is an active ~~member~~ licensee in good standing of the State Bar of California.
- (2) "Active ~~member~~ licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who ~~meets all of the following criteria~~:
  - (A) Is a ~~member~~ licensee in good standing of the entity governing the practice of law in each jurisdiction in which the ~~member~~ attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and
  - (B) Remains an active ~~member~~ licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency, other than California, while practicing law as registered in-house counsel in California; ~~and~~
  - (C) ~~Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.~~

(Subd (a) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)

### (b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is:

- (1) Permitted to provide legal services in California ~~only~~ to the qualifying institution that employs him or her;
- (2) Permitted to provide pro bono legal services under supervision of a California attorney for either eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1), or the qualifying institution that employs him or her;
- (~~3~~ 2) Not permitted to make court appearances in California state courts or to engage in any other activities for which pro hac vice admission is required if they are performed in California by an attorney who is not a ~~member~~ licensee of the State Bar of California; and
- (~~4~~ 3) Not permitted to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution, except as described in subdivision (b)(2).

(Subd (b) amended effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

**(c) Requirements**

For an attorney to qualify to practice law under this rule, the attorney must:

- (1) Be an active ~~member~~ licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- ~~(2) Register with the State Bar of California and file an Application for Determination of Moral Character;~~
- ~~(2)(3)~~ Meet all of the requirements for admission to the State Bar of California, except that the attorney:
  - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
  - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- ~~(3)(4)~~ Comply with the rules adopted by the Board of Trustees ~~Governors~~ relating to the State Bar Registered In-House Counsel Program;
- ~~(4)(5)~~ Practice law exclusively for a single qualifying institution, except that, while practicing under this rule, the attorney may, if so qualified, simultaneously practice law provide pro bono services through eligible legal aid organizations as a registered legal services attorney;
- ~~(5)(6)~~ Abide by all of the laws and rules that govern ~~members~~ licensees of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- ~~(6)(7)~~ Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that ~~members~~ licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered in-house counsel's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered in-house counsel's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- ~~(7)(8)~~ Reside in California.

*(Subd (c) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)*

**(d) Application**

~~To qualify to practice law as registered in-house counsel, an~~ The attorney must comply with the following registration requirements:

- (1) Register as an in-house counsel; submit an application for the qualifying institution; register as an attorney applicant and file an Application for Determination of Moral Character with the State Bar of California Committee of Bar Examiners; and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (2) Submit a supplemental form identifying the eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1) and the supervising attorney, through which an in-house counsel intends to provide pro bono services, if applicable;
- ~~(3)~~ (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than on behalf of the qualifying institution during the time he or she is registered in-house counsel in California, except ~~that if so qualified, the~~

~~attorney may, while practicing under this rule, simultaneously practice law as a registered legal services attorney if supervised, a registered in-house counsel may provide *pro bono* services through an eligible legal aid organization; and~~

~~(4 g)~~ Submit to the State Bar of California a declaration signed by an officer, a director, or a general counsel of the applicant's employer, on behalf of the applicant's employer, The declaration must attesting:

~~(i)~~ that the applicant is employed as an attorney for the employer;

~~(ii)~~ that the nature of the employment conforms to the requirements of this rule;

~~(iii)~~ that the employer will notify the State Bar of California within 30 days of the cessation of the applicant's employment in California; and

~~(iv)~~ that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.

*(Subd (d) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)*

#### **(e) Duration of practice**

A registered in-house counsel must renew his or her registration annually. There is no limitation on the number of years in-house counsel may register under this rule. Registered in-house counsel may practice law under this rule only for as long as he or she remains employed by the same qualifying institution that provided the declaration in support of his or her application. If an attorney practicing law as registered in-house counsel leaves the employment of his or her employer or changes employers, he or she must notify the State Bar of California within 30 days. If an attorney wishes to practice law under this rule for a new employer, he or she must first register as in-house counsel for that employer.

*(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)*

#### **(f) Eligibility**

~~An application to register under this rule may not be denied because:~~

~~(1) The attorney applicant has practiced law in California as in-house counsel before the effective date of this rule.~~

~~(2) The attorney applicant is practicing law as in-house counsel at or after the effective date of this rule, provided that the attorney applies under this rule within six months of its effective date.~~

*(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)*

#### **(f g) Application and registration fees**

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered in-house counsel.

*(Subd (g) relettered effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)*

#### **(g h) State Bar Registered In-House Counsel Program**

The State Bar must establish and administer a program for registering California in-house counsel under rules adopted by the Board of Trustees ~~Governors~~.

*(Subd (h) relettered effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)*

**(h) i) Inherent power of Supreme Court**

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

*(Subd (i) relettered effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)*

**(i) j) Effect of rule on multijurisdictional practice**

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not ~~members~~ licensees of the State Bar of California.

*(Subd (j) relettered effective , 2018; previously relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)*

*Rule 9.46 amended effective , 2018; previously amended and renumbered effective January 1, 2007; adopted as rule 965 by the Supreme Court effective November 15, 2004.*

TITLE 3. PROGRAMS AND SERVICES [9/05/2018 Draft]

Adopted July 2007

DIVISION 3. NON- ~~MEMBER~~ LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 23. Registered In-House Counsel

Rule 3.370 Definitions

- (A) An attorney registered as Registered In-House Counsel is an attorney who meets the eligibility requirements of Rule 9.46 of the California Rules of Court (“Rule 9.46”) and is registered by the State Bar as Registered In-House Counsel.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as Registered In-House Counsel.
- (C) A “qualifying institution” is a corporation, a partnership, an association, or other legal entity that meets the requirements of Rule of Court 9.46(a)(1).
- (D) “Reside in California” as used in Rule 9.46(c)(8) means to live or be located in California on more than a temporary or transient basis.

*Rule 3.370 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010*

Rule 3.371 Application

- (A) To apply to register as Registered In-House Counsel, an attorney who meets the eligibility and employment requirements of Rule 9.46 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered In-House Counsel<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines;
  - (3) meet State Bar requirements for acceptable moral character; and
  - (4) submit a Declaration signed by an officer, a director, or a general counsel of Qualifying Institution.<sup>4</sup>

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rule of Court 9.46(d).

<sup>4</sup> Rule of Court 9.46(a)(1).

- (B) An application to practice law as Registered In-House Counsel may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact in the application.

*Rule 3.371 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

#### Rule 3.372 Duties of Registered In-House Counsel

An attorney employed as Registered In-House Counsel must

- (A) annually renew registration as Registered In-House Counsel and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.46;
- (C) use the title “Registered In-House Counsel” ~~and no other~~ in connection with activities performed as Registered In-House Counsel;
- (D) not claim in any way to be a ~~member~~ licensed attorney of the State Bar of California;
- (E) maintain an address of record with the State Bar, which must be the current California office address of the attorney’s employer and a current e-mail address;
- (F) report to the State Bar within thirty days
  - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney’s status of good standing, suspension, resignation, disbarment, or a functional equivalent;
  - (2) termination of employment with the qualifying institution; or
  - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (G) submit a new application to register as Registered In-House Counsel before beginning employment with a new qualifying institution;<sup>5</sup> and
- (H) otherwise comply with the requirements of Rule 9.46 and these rules.

*Rule 3.372 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

#### Rule 3.373 Duties of employer

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<sup>5</sup> Rule of Court 9.46(a)(1).

- ~~(A) A qualifying institution prospectively employing of an attorney applying for registration as Registered In-House Counsel must complete a Declaration of Qualifying Institution.~~
- ~~(B) Within thirty days of ceasing to meet the requirements of Rule of Court 9.46(a), an employer of Registered In-House Counsel must report that to the State Bar that it is no longer a qualifying institution.~~

An employer who meets the requirements of Rule 9.46 for a qualifying institution must

(A) complete the Application for Approval as Qualifying Institution and be approved by the State Bar as a qualifying employer;

(B) complete a Declaration signed by an officer, a director, or a general counsel of the Qualifying Institution, before employing a Registered In-House Counsel, attesting that it

(1) is a qualifying institution;

(2) deems the attorney, on the basis of reasonable inquiry, to be of good moral character;

(3) agrees to notify the State Bar of California, in writing, within thirty days if

(a) the attorney has terminated employment;

(b) the attorney is no longer eligible for employment as required by Rule 9.46 and these rules;

(c) its status as a qualifying institution has changed; or

(d) it has changed its office address.

*Rule 3.373 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

#### Rule 3.374 Suspension of Registered In-House Counsel ~~registration~~

- (A) Registration as In-House Counsel is suspended
  - (1) for failure to annually register as Registered In-House Counsel and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;
  - (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule of Court 9.46 and pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;
  - (3) upon voluntary transfer to inactive status, or the functional



equivalent in any jurisdiction where admitted to practice; or disciplinary action that affects the attorney's status of good standing, suspension, resignation, disbarment, or a functional equivalent in status in any jurisdiction where admitted to practice law;

~~(4) upon imposition of discipline by a professional or occupational licensing authority; or~~

~~(4)(5) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a member licensee of the State Bar; or~~

(5) for failure to meet the eligibility requirements of Rule 9.46(c),(3),(4), (5), (6), and (7).

- (B) An attorney suspended under these rules is not permitted to practice law. ~~An attorney suspended for failure to comply with annual renewal or MCLE requirements may be reinstated upon compliance.~~
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

*Rule 3.374 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

### Rule 3.375 Termination of Registration

(A) Permission to practice law as Registered Registration as In-House Counsel terminates

~~(A) (1) upon for failure to meet the eligibility requirements of Rule 9.46(c)(1) or Rule 9.46(c)(2); failure to meet the eligibility requirements of Rule 9.46 or these rules;~~

~~(B) as required by Rule 9.46 or these rules upon imposition of discipline for misconduct by a professional or occupational licensing authority;~~

~~(C) (2) upon admission to the State Bar;~~

~~(D) (3) upon repeal of Rule 9.46 or termination of the Registered In-House Counsel program; or~~

(E) (4) upon request.

(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as In-House Counsel in order to practice law in California.

(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

*Rule 3.375 amended effective , 2018; adopted effective July 1, 2010.*

#### Rule 3.376 Reinstatement after termination

An attorney terminated as Registered In-House Counsel who seeks reinstatement must meet all eligibility and application requirements of Rule 9.46 and these rules.

*Rule 3.376 adopted effective July 1, 2010.*

#### Rule 3.377 Public information

State Bar records for attorneys permitted to practice law as Registered In-House Counsel are public to the same extent as ~~member~~ licensed attorney records.

*Rule 3.377 amended effective , 2018; adopted effective July 1, 2010.*

**Rule 9.45. Registered legal aid services attorneys [9/05/2018 Draft]****(a) Definitions**

The following definitions apply in this rule:

- (1) ~~"Qualifying legal services provider" means either of the following, provided that the qualifying legal services provider follows quality control procedures approved by the State Bar of California:~~

"Eligible legal aid organization" means any of the following:

- (A) ~~A nonprofit entity incorporated and operated exclusively in California that as its primary purpose and function provides legal services without charge in civil matters to indigent persons, especially underserved client groups, such as the elderly, persons with disabilities, juveniles, and non-English-speaking persons; or~~

A nonprofit entity in good standing in California and in the state in which it is incorporated, if other than California, that provides legal aid in civil matters, including family law and immigration law, to indigent and disenfranchised persons, especially underserved client groups, such as the elderly, persons with disabilities, people of color, juveniles, and limited English proficient persons; or

- (B) ~~A program operated exclusively in California by a nonprofit law school approved by the American Bar Association or accredited by the State Bar of California that has operated for at least two years at a cost of at least \$20,000 per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.~~

A nonprofit law school approved by the American Bar Association located in California or accredited by the State Bar of California that provides legal aid as described above in subdivision (A).

- (C) Entities that receive IOLTA funds pursuant to Business and Professions Code, section 6210, et seq., are deemed to be eligible legal aid organizations.

- (2) ~~"Active member licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:~~

- (A) ~~Is a member licensee in good standing of the entity governing the practice of law in each jurisdiction in which the member attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and~~

- (B) ~~Remains an active member licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered legal aid services attorney in California; and~~

- (C) ~~Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.~~

*(Subd (a) amended effective , 2018; relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)*

**(b) Scope of practice**

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule may practice law in California only while working, with or without pay, at an eligible legal aid organization ~~a qualifying legal services provider~~, as defined in this rule, and, at that institution and only on behalf of its clients or customers, may

engage, under supervision, in all forms of legal practice that are permissible for a ~~member~~ licensee of the State Bar of California.

*(Subd (b) amended effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)*

**(c) Requirements**

For an attorney to qualify to practice law under this rule, the attorney must:

- (1) Be an active ~~member~~ licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- ~~(2) Register with the State Bar of California and file an Application for Determination of Moral Character;~~
- ~~(2)(3)~~ Meet all of the requirements for admission to the State Bar of California, except that the attorney:
  - (A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
  - (B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
- ~~(3)(4)~~ Comply with the rules adopted by the Board of ~~Trustees~~ Governors relating to the State Bar Registered Legal Aid ~~Services~~ Attorney Program;
- ~~(5) Practice law exclusively for a single qualifying legal services provider, except that, if so qualified, an attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel;~~
- ~~(4) (6)~~ Practice law under the supervision of an attorney who is employed by the eligible legal aid organization ~~qualifying legal services provider~~ and who is a ~~member~~ licensee in good standing of the State Bar of California;
- ~~(5) (7)~~ Abide by all of the laws and rules that govern ~~members~~ licensees of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
- ~~(6) (8)~~ Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that ~~members~~ licensees of the State Bar of California must complete every three years, and, thereafter, satisfy the MCLE requirements for the registered legal aid attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered legal aid attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally; and
- ~~(7) (9)~~ Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

*(Subd (c) amended and renumbered effective , 2018; previously relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)*

**(d) Application**

~~To qualify to practice law as a registered legal services attorney, the~~ The attorney must comply with the following registration requirements:

- (1) Register as a legal aid attorney; submit a separate application for each eligible legal aid organization; ~~register as an attorney applicant and file an Application for Determination of Moral Character with the~~

State Bar of California Committee of Bar Examiners; and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;

- (2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of an attorney at an eligible legal aid organization ~~a qualifying legal services provider~~ during the time he or she practices law as a registered legal aid services attorney in California, ~~except that, if so qualified, the attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel; and~~

- (3) Submit to the State Bar of California a declaration signed by a qualifying supervisor ~~on behalf of the qualifying legal services provider~~ from each eligible legal aid organization in California. The declaration must attesting:

(i) that the applicant will work, with or without pay, as an attorney for the organization;

(ii) that the applicant will be supervised as specified in this rule; and

(iii) that the eligible legal aid organization ~~qualifying legal services provider~~ and the supervising attorney assume professional responsibility for any work performed by the applicant under this rule;

(iv) that the organization will notify the State Bar of California within 30 days of the cessation of the applicant's employment with that employer in California; and

(v) that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.

*(Subd (d) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)*

#### **(e) Duration of practice**

~~An~~ registered legal aid attorney must renew his or her registration annually and may practice for no more than a total of ~~three~~ five years under this rule.

*(Subd (e) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)*

#### **(f) Application and registration fees**

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered legal aid services attorneys.

*(Subd (f) amended effective , 2018; previously amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)*

#### **(g) State Bar Registered Legal Aid Services Attorney Program**

The State Bar may establish and administer a program for registering California legal aid services attorneys under rules adopted by the Board of Trustees ~~Governors~~ of the State Bar.

*(Subd (g) amended effective , 2018; previously relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)*

#### **(h) Supervision**

To meet the requirements of this rule, an attorney supervising a registered legal aid services attorney:

- (1) ~~Must be an active member in good standing of the State Bar of California~~ Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (2) ~~Must have actively practiced law in California for at least two years immediately preceding the time of supervision and been a member licensee in good standing of the State Bar of California for at least the two years immediately preceding the time of supervision;~~
- (3) ~~Must have practiced law as a full-time occupation for at least four years;~~
- (4) ~~Must not supervise more than two registered legal services attorneys concurrently;~~
- (3 5) Must assume professional responsibility for any work that the registered legal aid services attorney performs under the supervising attorney's supervision;
- (4 6) Must assist, counsel, and provide direct supervision of the registered legal aid services attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered legal aid attorney, and review such activities with the supervised registered legal aid attorney, to the extent required for the protection of the client or customer;
- (5 7) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered legal aid services attorney before their filing, and must read and approve any documents prepared by the registered legal aid services attorney ~~for execution by any person who is not a member of the State Bar of California before their submission for execution;~~ and
- (6 8) May, in his or her absence, designate another attorney meeting the requirements of (1) through (5) to provide the supervision required under this rule.

*(Subd (h) amended and renumbered effective , 2018; previously relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)*

**(i) Inherent power of Supreme Court**

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

*(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)*

**(j) Effect of rule on multijurisdictional practice**

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not ~~members~~ licensees of the State Bar of California.

*(Subd (j) relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)*

*Rule 9.45 amended and renumbered effective , 2018; previously amended and renumbered effective January 1, 2007; adopted as rule 964 by the Supreme Court effective November 15, 2004.*

TITLE 3. PROGRAMS AND SERVICES [9/05/2018 Draft]

Adopted July 2007

DIVISION 3. NON- MEMBER LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 4~~2~~. Registered Legal Aid ~~Services~~ Attorneys

Rule 3.360 Definitions

- (A) A “Registered Legal Aid ~~Services~~ Attorney” is an attorney who meets the eligibility requirements of Rule 9.45 of the California Rules of Court (“Rule 9.45”) and is registered by the State Bar as a Registered Legal Aid ~~Services~~ Attorney.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Legal Aid ~~Services~~ Attorney.
- (C) An “eligible legal aid organization ~~qualifying legal services provider~~” is an entity or law school program ~~that meets the requirements of Rule of Court 9.45(a)(1) or that receives a grant from the Legal Services Trust Fund.~~

*Rule 3.360 amended effective , 2018; adopted effective July 1, 2010.*

Rule 3.361 Application

- (A) To apply to register as a Registered Legal Aid ~~Services~~ Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.45 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered Legal Aid ~~Services~~ Attorney<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines;
  - (3) meet State Bar requirements for acceptable moral character; and
  - (4) submit a Declaration signed by the attorney from the eligible legal aid organization who will be providing the required supervision. ~~of Qualifying Legal Services Provider.~~

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rule of Court 9.44.

- (B) An application to practice law as a Registered Legal Aid Services Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

*Rule 3.361 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

#### Rule 3.362 Duties of Registered Legal Aid Services Attorney

An attorney employed as Registered Legal Aid Services Attorney must

- (A) annually renew registration as a Registered Legal Aid Services Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of ~~three~~ five years as a Registered Legal Aid Services Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.45;
- (D) report a change of attorney supervisor in accordance with State Bar requirements;
- (E) use the title “Registered Legal Aid Services Attorney” and no other in connection with activities performed as a Registered Legal Aid Services Attorney;
- (F) not claim in any way to be a ~~member~~ licensed attorney of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney’s employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
  - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney’s status of good standing, suspension, resignation, disbarment, or a functional equivalent;
  - (2) termination of employment with the eligible legal aid organization ~~qualifying legal services provider~~; or
  - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;
- (I) submit a new application to register as a Registered Legal Aid Services Attorney before beginning employment with a new eligible legal aid



- organization ~~qualifying legal services provider~~; and
- (J) otherwise comply with the requirements of Rule 9.45 and these rules.

*Rule 3.362 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

### Rule 3.363 Duties of employer

An employer who meets the requirements of Rule 9.45 for an eligible legal aid organization ~~qualifying legal services provider~~ must

- (A) ~~at all times meet the statutory requirements for a legal services project or be the recipient of a grant from the Legal Services Trust Fund;~~<sup>8</sup>
- (A ~~B~~) complete the Application for Approval as Eligible Legal Aid Organization ~~Qualifying Legal Services Provider~~ and be approved by the State Bar as an eligible ~~qualifying~~ employer;
- (B ~~C~~) ~~before employing a Registered Legal Services Attorney~~, complete a Declaration signed by the supervising attorney of the Eligible Legal Aid Organization ~~Qualifying Legal Services Provider, before employing a Registered Legal Aid Attorney~~, attesting that it
- a. is an eligible legal aid organization ~~qualifying legal services provider~~;
  - b. agrees to supervise the Registered Legal Aid ~~Services~~ Attorney (“attorney”) and otherwise comply with the requirements of Rule 9.45 and these rules;
  - c. deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
  - d. agrees to notify the State Bar of California, in writing, within thirty days if
    - i. the attorney has terminated employment;
    - ii. the attorney is no longer eligible for employment as required by Rule 9.45 and these rules;
    - iii. the supervising attorney no longer meets the requirements of these rules;
    - iv. its status as an eligible legal aid organization ~~qualifying legal services provider~~ has changed; or
    - v. it has changed its office address; ~~and~~.

<sup>8</sup> ~~Business & Professions Code §§ 6213 and 6214(b)(3)(B).~~

- (D) ~~comply with State Bar quality control procedures for qualifying legal services providers.~~

*Rule 3.363 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

Rule 3.364 Suspension of a Registered Legal Aid Services Attorney registration

- (A) Registration as a Legal Aid Services Attorney is suspended
- (1) for failure to annually register as a Registered Legal Aid Services Attorney and submit any related fee and penalty set forth in the Schedule of Charges and Deadlines;
  - (2) for failure to comply with the Minimum Continuing Legal Education requirement of Rule of Court 9.45 and to pay any related fee and penalty set forth in the Schedule of Charges and Deadlines;
  - (3) upon voluntary transfer to inactive status, or the functional equivalent in any jurisdiction where admitted to practice law ~~disciplinary action that affects the attorney's status of good-standing, suspension, resignation, disbarment, or a functional equivalent in status in any jurisdiction where admitted to practice law;~~
  - ~~(4) upon imposition of discipline by a professional or occupational licensing authority; or~~
  - ~~(4)(5) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a member licensee of the State Bar; or~~
  - (5) for failure to meet the eligibility requirements of Rule 9.45(c)(3),(4),(5), (6), and (7).
- (B) An attorney suspended under these rules is not permitted to practice law during the suspension. ~~An attorney suspended for failure to comply with annual registration requirements may be reinstated upon compliance.~~
- (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.
- (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

*Rule 3.364 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

## Rule 3.365 Termination of Registration

~~(A) Permission to practice law as a Registered~~ Registration as a Legal Aid Services Attorney terminates

~~(A) (1) upon for failure to meet the eligibility requirements of Rule 9.45(c)(1) or Rule 9.45(c)(2); failure to meet the eligibility requirements of Rule 9.45 or these rules;~~

~~(2) as required by Rule 9.45 or these rules; upon imposition of discipline for misconduct by a professional or occupational licensing authority; or~~

~~(B) —~~

~~(C) (3) upon admission to the State Bar;~~

~~(D) (4) upon repeal of Rule 9.45 or termination of the Registered Legal Aid Services Attorney program; or~~

~~(E) (5) upon request.~~

(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Legal Aid Attorney in order to practice law in California.

(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

*Rule 3.365 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

## Rule 3.366 Reinstatement after termination

An attorney terminated as a Registered Legal Aid Services Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

*Rule 3.366 adopted effective July 1, 2010; amended effective \_\_\_\_\_, 2018.*

## Rule 3.367 Public information

State Bar records for attorneys permitted to practice law as Registered Legal Aid Services Attorneys are public to the same extent as ~~member~~ records of licensed attorneys.

*Rule 3.367 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010.*

**Rule 9.44. Registered foreign legal consultant [9/05/2018 Draft]**

**(a) Definition**

A "registered foreign legal consultant" is a person who:

- (1) Is admitted to practice and is in good standing as an attorney or counselor-at-law or the equivalent in a foreign country; and
- (2) Has a currently effective certificate of registration as a registered foreign legal consultant from the State Bar.

*(Subd (a) amended effective January 1, 2007.)*

**(b) State Bar Registered Foreign Legal Consultant Program**

The State Bar must establish and administer a program for registering foreign attorneys or counselors-at-law or the equivalent under rules adopted by the Board of ~~Trustees~~ Governors of the State Bar.

*(Subd (b) amended effective \_\_\_\_\_, 2018; previously amended effective January 1, 2007.)*

**(c) Eligibility for certification**

To be eligible to become a registered foreign legal consultant, an applicant must:

- (1) Present satisfactory proof that the applicant has been admitted to practice and has been in good standing as an attorney or counselor-at-law or the equivalent in a foreign country for at least four of the six years immediately preceding the application and, while so admitted, has actually practiced the law of that country;
- (2) Present satisfactory proof that the applicant possesses the good moral character requisite for a person to be licensed as a licensee member of the State Bar of California and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (3) Agree to comply with the provisions of the rules adopted by the Board of ~~Trustees~~ Governors of the State Bar relating to security for claims against a foreign legal consultant by his or her clients;
- (4) Agree to comply with the provisions of the rules adopted by the Board of ~~Trustees~~ Governors of the State Bar relating to maintaining an address of record for State Bar purposes;
- (5) Agree to notify the State Bar of any change in his or her status in any jurisdiction where he or she is admitted to practice or of any discipline with respect to such admission;
- (6) Agree to be subject to the jurisdiction of the courts of this state with respect to the laws of the State of California governing the conduct of attorneys, to the same extent as a licensee member of the State Bar of California;
- (7) Agree to become familiar with and comply with the standards of professional conduct required of licensees ~~members~~ of the State Bar of California;
- (8) Agree to be subject to the disciplinary jurisdiction of the State Bar of California;
- (9) Agree to be subject to the rights and obligations with respect to attorney client privilege, work-product privilege, and other professional privileges, to the same extent as attorneys admitted to practice law in California; and

- (10) Agree to comply with the laws of the State of California, the rules and regulations of the State Bar of California, and these rules.

*(Subd (c) amended effective \_\_\_\_\_, 2018; previously amended effective January 1, 2007.)*

**(d) Authority to practice law**

Subject to all applicable rules, regulations, and statutes, a registered foreign legal consultant may render legal services in California, except that he or she may not:

- (1) Appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer;
- (2) Prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;
- (3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident or any instrument relating to the administration of a decedent's estate in the United States;
- (4) Prepare any instrument in respect of the marital relations, rights, or duties of a resident of the United States, or the custody or care of the children of a resident; or
- (5) Otherwise render professional legal advice on the law of the State of California, any other state of the United States, the District of Columbia, the United States, or of any jurisdiction other than the jurisdiction named in satisfying the requirements of (c) of this rule, whether rendered incident to preparation of legal instruments or otherwise.

*(Subd (d) amended effective January 1, 2007.)*

**(e) Failure to comply with program**

A registered foreign legal consultant who fails to comply with the requirements of the State Bar Registered Foreign Legal Consultant Program will have her or his certification suspended or revoked under rules adopted by the Board of Trustees ~~Governors~~ of the State Bar.

*(Subd (e) amended effective \_\_\_\_\_, 2018; previously amended effective January 1, 2007.)*

**(f) Fee and penalty**

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

*(Subd (f) amended effective January 1, 2007.)*

**(g) Inherent power of Supreme Court**

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

*(Subd (g) amended effective January 1, 2007.)*

*Rule 9.44 amended effective \_\_\_\_\_, 2018; previously amended and renumbered effective January 1, 2007; adopted as rule 988 effective December 1, 1993.*

TITLE 3. PROGRAMS AND SERVICES [Draft 9/05/18]

Adopted July 2007

DIVISION 3. ~~NON-MEMBER~~ LICENSEE ATTORNEYS

Chapter 4. Foreign Legal Consultants

Rule 3.400 Definitions

- (A) A “Registered Foreign Legal Consultant” is a person who meets the eligibility requirements of Rule of Court 9.44 of the California Rules of Court (“Rule 9.44”) and is registered by the State Bar as a Foreign Legal Consultant.
- (B) “Registered” means that the State Bar has issued a certificate of registration to a person it deems eligible to practice law as a Foreign Legal Consultant.

*Rule 3.400 adopted effective July 1, 2010*

Rule 3.401 Application

- (A) To practice law as a Registered Foreign Legal Consultant, a person who meets the eligibility requirements of the Rule 9.44 must
  - (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the required certificate and the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered Foreign Legal Consultant<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines (the Schedule);
  - (3) meet State Bar requirements for acceptable moral character, which are set forth in the instructions for Application for Registered Foreign Legal Consultant;
  - (4) submit a letter of recommendation from an authorized representative of the professional body having final disciplinary jurisdiction or a judge of the highest law court or court of original jurisdiction attesting to his or her professional qualifications in the foreign jurisdiction.
- (B) An application to practice law as a Registered Foreign Legal Consultant may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rule of Court 9.44.

- (C) Upon a showing of undue hardship by the applicant, the State Bar may waive or vary this rule's requirement of the letter of recommendation attesting to the applicant's professional qualifications.

*Rule 3.401 adopted effective July 1, 2010*

#### Rule 3.402 Duties of Registered Foreign Legal Consultants

A Foreign Legal Consultant must

- (A) annually renew registration as a Registered Foreign Legal Consultant and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) report to the State Bar within thirty days any change in eligibility or the security for claims required by these rules;
- (C) at all times maintain the security for claims required by these rules and upon demand promptly provide the State Bar with current evidence of security for claims;
- (D) provide legal advice in California exclusively regarding the law of a foreign jurisdiction where he or she is licensed to practice law and which is identified in the Application To Register as a Foreign Legal Consultant;
- (E) use the title "Registered Foreign Legal Consultant" and no other in connection with activities performed as a Registered Foreign Legal Consultant;
- (F) not claim in any way to be a ~~member~~ licensee of the State Bar of California;
- (G) maintain an address of record and a current e-mail address with the State Bar; and
- (H) otherwise comply with Rule 9.44 and these rules.

*Rule 3.402 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010*

#### Rule 3.403 Security for claims

A Registered Foreign Legal Consultant must provide evidence of security for claims for pecuniary losses resulting from acts, errors, or omissions in the rendering of legal services. The security assets must be maintained at all times, and the State Bar may require current evidence of security for claims at any time. The evidence

- (A) may be a certificate of insurance, a letter of credit, a written guarantee, or a written agreement executed by the applicant;
- (B) must be provided in a form acceptable to the State Bar; and
- (C) must be computed in United States dollars.

*Rule 3.403 adopted effective July 1, 2010*

### Rule 3.404 Insurance as security for claims

If insurance serves as security for claims, it must be acceptable to the State Bar and provide the Registered Foreign Legal Consultant a minimum amount of annual insurance and a maximum deductible. These amounts are specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

- (A) If the insurance excludes the cost of defense, the Registered Foreign Legal Consultant may reduce the minimum amount of annual insurance as specified in the Schedule.
- (B) If the insurance provides for a deductible greater than that specified in the Schedule, the Registered Foreign Legal Consultant must provide a letter of credit or a written agreement as evidence of security for the deductible.
- (C) If the insurance is provided by an insurer outside California, the Registered Foreign Legal Consultant must promptly provide, upon request of the State Bar, a copy of the insurance policy and a translation if the policy is not in English.

*Rule 3.404 adopted effective July 1, 2010*

### Rule 3.405 Letter of credit as security for claims

If a letter of credit serves as security for claims, the Registered Foreign Legal Consultant must maintain the letter of credit at all times in the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

*Rule 3.405 adopted effective July 1, 2010*

### Rule 3.406 Written guarantee as security for claims

If a written guarantee serves as security for claims, the Registered Foreign Legal Consultant must maintain the written guarantee at all times for a minimum amount in favor of the State Bar. The amount is specified in the Schedule for a single claim and for all claims.

- (A) The guarantor must be a California law firm or law corporation, an active ~~member~~ licensee of the State Bar, or a financial institution.
- (B) The written guarantee must be supported by an independent accountant's certified financial statements and subsidiary records evidencing that tangible networth for the most recent fiscal year is equivalent to the minimum amount required for security for claims, exclusive of intangible assets such as good will, licenses, patents, trademarks, trade names, copyrights, and franchises. Net worth may include fifty percent of earned fees that have not been billed and billed fees that have not been collected.

*Rule 3.406 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010*



### Rule 3.407 Written agreement as evidence of security for claims

If a Foreign Legal Consultant's written agreement serves as security for claims, the agreement must be for the minimum amount specified in the Schedule of Charges and Deadlines for a single claim and for all claims.

*Rule 3.407 adopted effective July 1, 2010*

### Rule 3.408 Suspension of registration as a Foreign Legal Consultant

#### (A) Registration as a Foreign Legal Consultant is suspended

- (1) for failure to annually register as a Foreign Legal Consultant and submit any related fee and penalty by the date set forth in the Schedule of Charges and Deadlines;
- (2) for failure to otherwise comply with or meet the eligibility requirements of Rule 9.44(c) (3), (4), (5), (6), (7), (8), (9), and (10), these rules or with the laws or standards of professional conduct applicable to a member-licensee of the State Bar; or
- ~~(3) upon imposition of discipline by a professional or occupational licensing authority.~~

#### (B) A Foreign Legal Consultant suspended under these rules is not permitted to practice law during the suspension. ~~A Foreign Legal Consultant suspended for failure to comply with annual registration requirements may be reinstated upon compliance.~~

#### (C) A notice of suspension is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

#### (D) Appeal of a suspension is subject to the disciplinary procedures of the State Bar.

*Rule 3.408 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010*

### Rule 3.409 Termination of Registration

#### ~~(A) Permission to practice law as a Register~~ Registration as a ~~ed~~ Foreign Legal Consultant terminates

- ~~(A) upon failure to meet the eligibility requirements of Rule 9.44 or these rules;~~
- ~~(B) as required by Rule 9.44 or these rules;~~

- ~~(C)~~ (1) for failure to meet the eligibility requirements of Rule 9.44(c)(1) or Rule 9.44(c)(2);
- ~~(D)~~ (2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;
- ~~(E)~~ (3) upon admission to the State Bar;  
(4) upon repeal of Rule 9.44 or termination of the Foreign Legal Consultants program; or  
(5) upon request.

(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Foreign Legal Consultant in order to practice law in California.

(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

*Rule 3.409 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010*

#### Rule 3.410 Reinstatement after termination

An attorney terminated as a Registered Foreign Legal Consultant who seeks reinstatement must meet all eligibility and application requirements of these rules. Reinstatement is effective from the date of compliance.

*Rule 3.410 adopted effective July 1, 2010*

#### Rule 3.411 Public information

State Bar records for attorneys permitted to practice law as Foreign Legal Consultants are public to the same extent as ~~member~~ licensee records.

*Rule 3.411 amended effective \_\_\_\_\_, 2018; adopted effective July 1, 2010*

**Rule 9.41.1. Registered military spouse attorney [9/19/2018 Draft]**

**(a) Registered Military Spouse Attorney**

The following definitions apply in this rule:

**(1) Definitions**

- (A) "Military Spouse Attorney" means an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency and who is married to, in a civil union with, or a registered domestic partner of, a Service Member.
- (B) "Service Member" means an active duty member of the United States Uniformed Services who has been ordered stationed within California.
- (C) "Active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:
  - (i) Is a licensee in good standing of the entity governing the practice of law in each jurisdiction in which the attorney is licensed to practice law, who has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law for disciplinary misconduct in any other jurisdiction; and;
  - (ii) Remains an active licensee in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than California while practicing law as a registered military spouse attorney in California.

**(2) Scope of Practice**

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is permitted to practice law in California, under supervision, in all forms of legal practice that are permissible for a licensed attorney of the State Bar of California, including pro bono legal services.

**(3) Requirements**

For an attorney to qualify to practice law under this rule, the attorney must:

- (A) Be an active licensee in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
- (B) Be married to, be in a civil union with, or be a registered domestic partner of, a Service Member, except that the attorney may continue to practice as a registered military spouse attorney for one year after the termination of the marriage, civil union, or domestic partnership as provided in (a)(9)(A)(vii) ;
- (C) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
  - (i) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
  - (ii) May practice law while awaiting the result of his or her Application for Determination of Moral Character from the State Bar of California.
- (D) Comply with the rules adopted by the Board of Trustees relating to the State Bar Registered Military Spouse Attorney Program;
- (E) Practice law under the supervision of an attorney who is an active licensee in good standing of the State Bar of California who has been admitted to the practice of law for two years or more;

- (F) Abide by all of the laws and rules that govern licensees of the State Bar of California, including the Minimum Continuing Legal Education ("MCLE") requirements;
- (G) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that licensees of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements for the registered military spouse attorney's compliance group as set forth in State Bar Rules 2.70 and 2.71. If the registered military spouse attorney's compliance group is required to report in less than thirty-six months, the MCLE requirements will be reduced proportionally ; and
- (H) Not have taken and failed the California bar examination within five years immediately preceding initial application to register under this rule.

#### **(4) Application**

The attorney must comply with the following registration requirements:

- (A) Register as an attorney applicant, file an Application for Determination of Moral Character with the Committee of Bar Examiners, and comply with Rules of Court, rule 9.9.5, governing attorney fingerprinting;
- (B) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and
- (C) Submit to the State Bar of California a declaration signed by a qualifying supervising attorney. The declaration must attest:
  - (i) that the applicant will be supervised as specified in this rule; and
  - (ii) that the supervising attorney assumes professional responsibility for any work performed by the registered military spouse attorney under this rule.

#### **(5) Application and Registration Fees**

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered military spouse attorney.

#### **(6) State Bar Registered Military Spouse Attorney Program**

The State Bar may establish and administer a program for registering registered military spouse attorneys under rules adopted by the Board of Trustees of the State Bar.

#### **(7) Supervision**

To meet the requirements of this rule, an attorney supervising a registered military spouse attorney:

- (A) Must have practiced law as a full-time occupation for at least four years in any United States jurisdiction;
- (B) Must have actively practiced law in California for at least two years immediately preceding the time of supervision and be a licensee in good standing of the State Bar of California;
- (C) Must assume professional responsibility for any work that the registered military spouse attorney performs under the supervising attorney's supervision;
- (D) Must assist, counsel, and provide direct supervision of the registered military spouse attorney in the activities authorized by this rule, approve in writing any appearance in court, deposition, arbitration or any proceeding by the registered military spouse attorney, and review such activities with the supervised military spouse attorney, to the extent required for the protection of the client or customer;

- (E) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered military spouse attorney before their filing, and must read and approve any documents prepared by the registered military spouse attorney before their submission to any other party;
- (F) Must agree to assume control of the work of the registered military spouse attorney in the event the registration of the military spouse attorney is terminated, in accordance with applicable laws; and
- (G) May, in his or her absence, designate another attorney meeting the requirements of (A) through (F) to provide the supervision required under this rule.

#### **(8) Duration of Practice**

A registered military spouse attorney must renew his or her registration annually and may practice for no more than a total of five years under this rule.

#### **(9) Termination of Military Spouse Attorney Registration**

(A) Registration as a registered military spouse attorney is terminated

- (i) upon receipt of a determination by the Committee of Bar Examiners that the registered military spouse attorney is not of good moral character;
- (ii) for failure to annually register as a registered military spouse attorney and submit any related fee set by the State Bar;
- (iii) for failure to comply with the Minimum Continuing Legal Education requirements and to pay any related fee set by the State Bar;
- (iv) if the registered military spouse attorney no longer meets the requirements under (a)(1)(C) of this section
- (v) upon the imposition of any discipline by the State Bar of California or any other professional or occupational licensing authority, including administrative or stayed suspension;
- (vi) for failure to otherwise comply with these rules or with the laws or standards of professional conduct applicable to a licensee of the State Bar of California;
- (vii) if the Service Member is no longer an active member of the United States Uniformed Services or is transferred to another state, jurisdiction, territory outside of California, except that if the Service Member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the Service Member is assigned to a location with dependents authorized; or
- (viii) one year after the date of termination of the registered military spouse attorney's marriage, civil union, or registered domestic partnership.

(B) The supervising attorney of registered military spouse attorney suspended by these rules will assume the work of the registered military spouse attorney in accordance with applicable laws.

#### **(10) Inherent Power of Supreme Court**

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.

#### **(11) Effect of Rule on Multijurisdictional Practice**

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not licensees of the State Bar of California.

Adopted as rule 9.41.1 by the Supreme Court effective , 2018.

TITLE 3. PROGRAMS AND SERVICES [9/19/2018 Draft]

Adopted \_\_\_\_ 2018

DIVISION 3. NON-LICENSEE ATTORNEYS

Chapter 1. Multijurisdictional Practice

Article 1. Registered Military Spouse Attorney

Rule 3.350 Definitions

- (A) A “Registered Military Spouse Attorney” is an attorney who meets the eligibility requirements of Rule 9.41.1 of the California Rules of Court (“Rule 9.41.1”) and is registered by the State Bar as a Registered Military Spouse Attorney.
- (B) “Registered” means that the State Bar has issued a certificate of registration to an attorney it deems eligible to practice law as a Registered Military Spouse Attorney.

Rule 3.351 Application

- (A) To apply to register as a Registered Military Spouse Attorney, an attorney who meets the eligibility and employment requirements of Rule 9.41.1 must
- (1) submit an Application for Registration<sup>1</sup> as an attorney applicant for admission to the State Bar of California with the fee set forth in the Schedule of Charges and Deadlines;<sup>2</sup>
  - (2) submit an Application for Registered Military Spouse Attorney<sup>3</sup> with the fee set forth in the Schedule of Charges and Deadlines;
  - (3) meet State Bar requirements for acceptable moral character;
  - (4) submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision of a California attorney during the time he or she practices law as a military spouse attorney in California; and

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<sup>1</sup> See Rule 4.16(B).

<sup>2</sup> See Rule 4.3(B).

<sup>3</sup> See Rules of Court, rule 9.41.1.

- (5) submit a Declaration signed by the supervising attorney<sup>4</sup>.
- (B) An application to practice law as a Registered Military Spouse Attorney may be denied for failure to comply with eligibility or application requirements or a material misrepresentation of fact.

### Rule 3.352 Duties of Registered Military Spouse Attorney

An attorney employed as Registered Military Spouse Attorney must

- (A) annually renew registration as a Registered Military Spouse Attorney and submit the fee set forth in the Schedule of Charges and Deadlines;
- (B) practice for no more than a total of five years as a Registered Military Spouse Attorney;
- (C) meet the Minimum Continuing Legal Education (MCLE) requirements set forth in Rule 9.41.1;
- (D) report a change of supervising attorney in accordance with State Bar requirements;
- (E) use the title “Specially Registered Attorney” in connection with activities performed as a Registered Military Spouse Attorney;
- (F) not imply or claim in any way to be a licensed attorney of the State Bar of California;
- (G) maintain with the State Bar an address of record that is the current California office address of the attorney’s employer and a current e-mail address;
- (H) report to the State Bar within thirty days:
  - (1) a change in status in any jurisdiction where admitted to practice law, such as transfer to inactive status, disciplinary action that affects the attorney’s status of good standing, suspension, resignation, disbarment, or a functional equivalent;
  - (2) termination of supervision by the supervising attorney; or
  - (3) any information required by the State Bar Act, such as that required by sections 6068(o) and 6086.8(c) of the California Business and Professions Code, or by other legal authority;

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<sup>4</sup> See Rules of Court, rule 9.41.1(a)(3)(F)

- (I) be supervised by a qualifying supervising attorney who meets the requirements of Rule 9.41.1.
- (J) submit a new application to register as a Registered Military Spouse Attorney before beginning employment with a new qualifying supervising attorney; and
- (K) otherwise comply with the requirements of Rule 9.41.1 and these rules.

Rule 3.353 Duties of supervising attorney

A qualifying supervising attorney who meets the requirements of Rule 9.41.1 must

- (A) complete the Application for Approval, and be approved by the State Bar, as a qualifying supervising attorney;
- (B) complete and sign a Declaration before supervising a Registered Military Spouse Attorney, attesting that he or she
  - a. is a qualified supervising attorney;
  - b. agrees to supervise Registered Military Spouse Attorney (“attorney”) and otherwise comply with the requirements of Rule 9.41.1 and these rules;
  - c. deems the attorney, on the basis of reasonable inquiry, to be of good moral character;
  - d. agrees to notify the State Bar of California, in writing, within thirty days if
    - i. the attorney has terminated employment;
    - ii. the attorney is no longer eligible for employment as required by Rule 9.41.1 and these rules;
    - iii. the supervising attorney no longer meets the requirements of these rules;
    - iv. their status as a qualifying supervising attorney has changed; or
    - v. he/she has changed their office address.

Rule 3.354 Termination of Registration

(A) Registration as a Military Spouse Attorney terminates

- (1) as required by Rule 9.41.1;



(2) upon imposition of discipline for misconduct by a professional or occupational licensing authority;

(3) upon admission to the State Bar of California;

(4) upon repeal of Rule 9.41.1 or termination of the Registered Military Spouse Attorney program; or

(5) upon request.

(B) An attorney whose registration has been terminated under these rules is not permitted to practice law in California and must submit a new application and comply with Rules of Court, rule 9.9.5 governing attorney fingerprinting to register as a Foreign Legal Consultant in order to practice law in California.

(C) A notice of termination is effective ten days from the date of receipt. Receipt is deemed to be five days from the date of mailing to a California address; ten days from the date of mailing to an address elsewhere in the United States; and twenty days from the date of mailing to an address outside the United States. Alternatively, receipt is when the State Bar delivers a document physically by personal service or otherwise.

(D) Appeal of a termination is subject to the disciplinary procedures of the State Bar.

#### Rule 3.355 Reinstatement after termination

An attorney terminated as a Registered Military Spouse Attorney who seeks reinstatement must meet all eligibility and application requirements of these rules.

#### Rule 3.356 Public information

State Bar records for attorneys permitted to practice law as Registered Military Spouse Attorney are public to the same extent as licensed attorney records.

Rules 3.550-3.357 adopted effective \_\_, 2018.

TITLE 3, DIVISION 3, CHAPTER 1, ARTICLE 1REGISTERED MILITARY SPOUSE ATTORNEY

*Fees adopted by the Board of Trustees or mandated by statute.  
effective **January 1, 2019.***

<u>Rule</u>	<u>Description</u>	<u>Amount</u>	<u>Deadline</u>
<u>3.351(A)(1)</u>	<u>Application for registration as attorney applicant for admission</u>	<u>Equivalent to Admissions Registration fee. See Rule 4.16</u>	<u>Not applicable</u>
<u>3.351(A)(2)</u>	<u>Application for Registered Military Spouse Attorney</u>	<u>\$635</u>	<u>Not applicable</u>
<u>3.351(A)(2)</u>	<u>Moral Character Determination application</u>	<u>Equivalent to Application for Determination of Moral Character Fee</u>	<u>Not applicable</u>
<u>3.352(A)(1)</u>	<u>Annual renewal as Registered Military Spouse Attorney</u>	<u>Equivalent to annual membership fee for active State Bar member. See Rule 2.11</u>	<u>March 1</u>
<u>3.354(A)(1)</u>	<u>Annual renewal deadline; penalty for late renewal</u>	<u>Equivalent to penalty for late payment fee for active State Bar member. See Rule 2.13</u>	<u>March 30</u>

TITLE 3, DIVISION 3, CHAPTER 1, ARTICLE ~~42~~REGISTERED LEGAL ~~SERVICES~~ AID ATTORNEYS

*Fees previously adopted by the Board of Trustees or mandated by statute.  
Amended effective **January 1, ~~2016~~ 2019.***

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
3.361(A)(1)	Application for registration as attorney applicant for admission	Equivalent to Admissions Registration fee. See Rule 4.16	Not applicable
3.361(A)(2)	Application for Registered Legal <del>SERVICES</del> <u>AID</u> Attorney	\$635	Not applicable
3.361(A)(2)	Moral Character Determination application	Equivalent to Application for Determination of Moral Character Fee	Not applicable
3.362(A)(1)	Annual renewal as Registered Legal <del>SERVICES</del> <u>AID</u> Attorney	Equivalent to annual membership fee for active State Bar member. See Rule 2.11	March 1
3.364(A)(1)	Annual renewal deadline; penalty for late renewal	Equivalent to penalty for late payment fee for active State Bar member. See Rule 2.13	March 30

TITLE 3, DIVISION 3, CHAPTER 1, ARTICLE ~~2~~3

## REGISTERED IN-HOUSE COUNSEL

*Fees previously adopted by the Board of Trustees or mandated by statute.  
Amended effective **January 1, ~~2016~~ 2019.***

<i>Rule</i>	<i>Description</i>	<i>Amount</i>	<i>Deadline</i>
3.371(A)(1)	Application for registration as attorney applicant for admission	Equivalent to Admissions Registration fee. See Rule 4.16	Not applicable
3.371(A)(2)	Application for Registered In-House Counsel	\$635	Not applicable
3.371(A)(3)	Application for Moral Character Determination	Equivalent to Application for Determination of Moral Character fee. See Rule 4.	Not applicable
3.372(A); see also 3.374(A)(1)	Annual Renewal as Registered In-House Counsel	Equivalent to annual membership fee for active State Bar member. See Rule 2.11	March 1
3.374(A)(1)	Annual renewal deadline; penalty for late renewal	Equivalent to penalty for late payment fee for active State Bar member. See Rule 2.13	March 30

## **ATTACHMENT L**

### **REVISIONS TO THE SPECIAL ADMISSIONS RULES PUBLIC COMMENTS FROM INDIVIDUALS / ENTITIES**

1. Alyn Beauregard
2. Amanda Oh
3. Anderson Barrett
4. Andrea DeMichael
5. Association of Corporate Counsel – Washington DC, Sacramento, Southern CA, San Diego, and San Francisco
6. Betsy Boggs
7. Blue Star Families
8. Camille Bennehoff
9. Caroline Lutz
10. Catherine Duryea
11. Danielle Bolong
12. Disability Rights California
13. Eileen Moore
14. Ellen Walrath
15. Jadzia Pierce
16. Jenner & Black LLP
17. Jennifer Young
18. Jodi Galvin
19. Joel Hermsdorfer
20. Jonathan Margolick
21. Katherine Goyette
22. Kelly Bohne
23. Kristen Jones
24. Kristen Pak
25. Lauren Veggian
26. Lawyers Club of San Diego
27. Legal Aid Association of California
28. Lindsey Savage
29. Los Angeles Dependency Lawyers, Inc.
30. Maria Campbell
31. Mary Sherer
32. Meghan Dohoney
33. Melissa Regnier
34. Military Officers Association of America
35. Military Spouse JD Network and Army Chiefs of Staff
36. One Justice
37. Pamela Prieto
38. Patricia Scott
39. Probono Institute
40. Rachel Smith
41. Samuel Maizel; John Moe II; Tania Moyron
42. Sarah Ahn
43. Sharon Lee;
44. Sloane Perras
45. Stella Goodrich
46. Stephanie Halford
47. Steven Lepper
48. Tyler Cowart
49. Veterans Legal Institute
50. WWC
51. Yahya Shakir