

15-301.1. Public employee limited license.

A. Definitions. As used in this rule

- (1) “public employee” means any officer, employee, or servant of a governmental entity, excluding independent contractors;
- (2) “governmental entity” means ~~the~~ any state agency or any local public body as defined in Subparagraphs (3) and (4) of this paragraph;
- (3) “local public body” means all political subdivisions of this state and their agencies, instrumentalities, and institutions;
- (4) “state agency” means any of the branches, agencies, departments, boards, instrumentalities, or institutions of the ~~state~~ State of New Mexico.

B. Eligibility. Upon application, the clerk of the Supreme Court may issue a limited ~~non-renewable one (1) year~~ license to an attorney who

- (1) is admitted to practice law in another state, territory, or protectorate of the United States or the District of Columbia;
- (2) is ~~in good standing to practice law in each state~~ not under disciplinary disbarment or suspension in any jurisdiction in which the attorney is licensed; ~~and~~
- (3) has not resigned from the bar of such other jurisdiction while under disciplinary suspension or while under disciplinary proceedings;
- (4) is not the subject of current or pending disciplinary proceedings in any other jurisdiction; and
- (5) satisfies the limited license requirements set forth in this rule.

C. Application procedure. An applicant for a limited license to represent public defender clients or any governmental entity in this state shall file with the clerk of the Supreme Court an application for limited license which shall be accompanied by the following:

- (1) a certificate of admission to practice and good standing from each ~~state~~ jurisdiction in which the applicant ~~is licensed~~ currently has an active license to practice law and proof of compliance with ~~Subparagraphs (1) and (2) of Paragraph B of~~ Rule 15-103(B)(1) and (2) NMRA;
- (2) a letter from the head of the governmental entity ~~which~~ that has employed the applicant certifying employment with that governmental entity;
- (3) a certificate signed by the applicant stating that the applicant has
 - (a) read and is familiar with the New Mexico Rules of Professional Conduct, the Creed of Professionalism of the State Bar of New Mexico, and rules of the Supreme Court of New Mexico and the New Mexico statutes relating to the conduct of attorneys; and
 - (b) applied for a character and fitness investigation with the New Mexico Board of Bar Examiners in conformance with Rules 15-104(A) and (C) and 15-301 NMRA; and
- (4) a docket fee in the amount of one hundred twenty-five dollars (\$125.00) payable to the New Mexico Supreme Court and ~~disciplinary fee in the amount of one hundred fifty dollars (\$150.00) payable to the Disciplinary Board~~ two hundred fifty dollars (\$250.00) payable to the New Mexico Board of Bar Examiners for a character and fitness investigation, with all fees and costs associated with an application for limited license being nonrefundable. ~~[All fees and costs associated with an application for limited license are not refundable.]~~

D. License; issuance and revocation.

- (1) If an applicant for a limited license to represent public defender clients or a

governmental entity complies with the provisions of this rule, the clerk of the Supreme Court may issue a limited [~~one (1) year~~] license to represent public defender clients or practice law as an employee of a governmental entity. [~~This license shall not be renewed.~~]

(2) A limited license issued [~~pursuant to~~] under this rule only permits the limited licensee to practice law in New Mexico as a public employee representing public defender clients or a governmental entity.

(3) The clerk of the Supreme Court shall revoke the limited license of any person found in violation of [~~these rules~~] this rule or any other rule approved by the Supreme Court [~~or any state or federal law~~] regulating the licensing or conduct of attorneys or if, after notice from the Board of Bar Examiners, the Supreme Court revokes the limited license based on the Board's character and fitness investigation. Upon revocation of a limited license, the [~~applicant~~] limited licensee shall not appear in any court in this [~~State~~] state as an attorney.

E. **Suspension for failure to cooperate.**

(1) *Petition for suspension for failure to cooperate.* The Board of Bar Examiners may file a petition for suspension of the limited license with the Supreme Court alleging that the attorney has not filed an application for a character and fitness investigation, has not responded to requests for information, has not appeared for a scheduled hearing, or has not produced records or documents requested by the Board of Bar Examiners and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by the Board to obtain the attorney's cooperation and compliance. A copy of the petition shall be served on the respondent-attorney.

(2) *Response to the petition.* If the respondent-attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the attorney's limited license to practice law until further order of the Supreme Court. The attorney's response shall set forth facts showing that the attorney has complied with the requests or the reasons why the attorney has not complied, and the attorney may request a hearing.

(3) *Supreme Court action.* Upon consideration of a petition for suspension and the attorney's response, if any, the Supreme Court may suspend the attorney's limited license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Board for an expedited evidentiary hearing under Rule 15-301(C) NMRA. The Board's findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the Board.

(4) *Reinstatement.* An attorney suspended under this paragraph may apply to the Supreme Court for reinstatement upon proof of compliance with the requests of the Board of Bar Examiners as alleged in the petition, or as otherwise ordered by the Court. A copy of the application must be delivered to the Board, who may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate an attorney suspended under the provisions of this paragraph upon proof of compliance with the requests of the Board.

F. **Expiration.** [~~An attorney who is issued a limited license to represent public~~

~~defender clients or practice law as an employee of a governmental entity shall take the next New Mexico bar examination for which the applicant is eligible.]~~

(1) A limited license issued ~~[pursuant to]~~ under this rule shall expire upon the occurrence of any of the earliest of the following events:

~~(a) [(1) — the expiration of one (1) year from the date of issuance by the New Mexico Supreme Court;~~

~~(2) — notification that the applicant has failed the New Mexico bar exam;~~

~~(3)] termination of employment with the governmental entity unless the provisions of Subparagraph (G)(5) of this rule are followed; or~~

~~[(4) — failure of the limited licensee to take the next bar examination for which the limited licensee is eligible; or~~

~~(5)] (b) admission to the New Mexico Bar upon~~

~~(i) passing the bar examination;~~

~~(ii) Uniform Bar Examination admission under Rule 15-202~~

NMRA; or

~~(iii) admission on motion under Rule 15-107 NMRA [or].~~

(2) The head of the governmental entity that employed the attorney shall notify the Clerk of the Supreme Court when the attorney is no longer employed by the governmental entity.

~~[(6)](3) [once] When a limited license expires or is revoked, an attorney who resides or maintains a legal residence in this [State] state shall not be admitted to the practice of law for a particular case under the pro hac vice rules approved by [this] the Supreme Court.~~

[F]G. **Limited licensee status.** ~~[An attorney granted a limited license pursuant to this rule shall not be a member of the state bar but shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline. Licensees shall pay the annual disciplinary fee as part of the application process.]~~

(1) An applicant granted a limited license under this rule shall be a member of the State Bar of New Mexico and shall be subject to the Rules of Professional Conduct and the Rules Governing Discipline.

(2) Licensees under this rule shall pay the annual state bar membership fee of one hundred twenty-five dollars (\$125.00).

(3) The annual disciplinary fee assessment under Rule 17-203(A) NMRA is waived.

(4) Licensees under this rule shall comply with the Rules for Minimum Continuing Legal Education.

(5) To avoid the expiration of a limited license under Subparagraph (F)(1)(a) of this rule, an applicant who terminates employment with one governmental entity and accepts employment with another governmental entity must serve written notice on the clerk of the Supreme Court of the applicant's change in employment, and the employer must also comply with Subparagraph (C)(2) of this rule.

[Approved, effective June 13, 2000; as amended effective February 28, 2002; October 24, 2003; March 29, 2004; as amended by Supreme Court Order No. 05-8300-010, effective September 1, 2005; as amended by Supreme Court Order No. 17-8300-007, effective August 1, 2017.]