

# SUPREME COURT OF GUAM

## GUAM RULES GOVERNING ADMISSION TO THE PRACTICE OF LAW

(As amended through Promulgation Order No. 06-007-07, January 24, 2012)

### **Rule 1 -- Board of Law Examiners.**

#### **Rule 1.01. Membership.**

The Board of Law Examiners (the Board”) shall consist of the Chief Justice and Associate Justices of the Supreme Court of Guam as members, and the Presiding Judge of the Superior Court of Guam and President of the Guam Bar Association as ex officio members. The Chief Justice or his designee shall serve as the Chairperson. The Clerk of the Supreme Court shall serve as the ex officio secretary-treasurer of the Board.

#### **Rule 1.02. Powers and Duties.**

The Board has charge of the investigation and examination of all persons who initially apply for admission to the Guam Bar. The Board may adopt suitable regulations, subject to approval by the Supreme Court, concerning the performance of its functions and duties. The Board has the power to subpoena and the authority to administer oaths and to take testimony under oath which may be exercised by any member of the Board in cases of applicants for admission to the Bar.

#### **Rule 1.03. Meetings; Quorum.**

The Board shall meet at least twice in each year at such times and places as its chairman shall determine for the purpose of investigating, examining, hearing and passing upon the qualifications of applicants for admission to the Bar and to transact such other business as may come before the Board. Three (3) members of the Board shall constitute a quorum. The action of a majority of the members present at a meeting at which a quorum is present shall be the action of the Board.

#### **Rule 1.04. Authority of the Chair.**

Any action which may be taken by the Board may, when the Board is not in session and time is of the essence, be taken by the chair alone who shall promptly notify the members of the Board of such action, which action shall be subject to confirmation at the next following regular meeting of the Board.

#### **Rule 1.05. Records.**

(a) The Board shall maintain records generated in the course of accepting and processing applications for certification of fitness to practice law, as well as records generated in accepting and processing applications to take the bar examination and results of having taken the bar examination. Only the following records, provided in this section, shall be maintained as public records. No other records shall be deemed public records.

(1) With respect to applications for certification of fitness to practice law: name and address of each applicant.

(2) With respect to applications to sit for the bar examination: name and address of each applicant.

(3) With respect to each bar examination: the names and addresses of persons who passed the examination and such statistical summaries as may be specifically authorized by the Board.

(b) All other information provided by or obtained with respect to an applicant for certification of fitness to practice law or to take a bar examination, including examination results except as specifically provided for herein, shall be considered confidential and privileged communications and shall not be released to any person or agency; except, however, in those instances where a hearing with respect to an application for certification of fitness to practice law is to be held. Information and documents obtained by the Board pursuant to its investigation and relevant to the specifications issued by the Board may be disclosed to the applicant and his counsel and to a Hearing Officer appointed to conduct the hearing.

(c) Information provided by or obtained with respect to an applicant for certification of fitness to practice law may be disclosed to the bar admissions authority of any United States jurisdiction, including but not limited to the Commonwealth of the Northern Mariana Islands (CNMI), where the Applicant may apply for admission to the practice of law. The applicant, however, must request in writing that such information be supplied to such other authority on the understanding that such information will not be released to the applicant. The name, address, date of birth, and social security number of each applicant for certification of fitness to practice law may be furnished to the National Conference of Bar Examiners (NCBE) for dissemination to the bar admissions authority of any United States jurisdiction, including but not limited to the CNMI, upon request. Moreover, an application for certification of fitness to practice law and application to take the bar examination may be released to the hearing counsel of the Guam Bar Ethics Committee in Disciplinary Matters. Finally, information and records may be disclosed as provided by order of the Court.

#### **Rule 1.06. Communications with Board Members.**

(a) All communications to or with the Board or any member thereof relating to pending applications for certification of fitness to practice law or to pending applications to take the bar examination or to the results thereof or to eligibility for admission to the bar examination or to certificates of eligibility for admission to the practice of law and all communications with either board or any member thereof relating to waiver of any part of these rules, whether by an applicant or by any person or agent acting for or on behalf of an applicant shall be transmitted through the Board unless otherwise directed in writing by the Chairperson.

(b) Contact regarding Bar examination results or admission concerns by telephone or otherwise with the members of the Board other than the secretary-treasurer, or with graders of the Guam Bar Examination, by an applicant, or his or her representative, is prohibited.

#### **Rule 1.07. Immunity.**

(a) Civil Immunity. The Board, its members and employees, shall be absolutely immune from civil suit in the same manner as members of the judiciary in Guam for any conduct or communication in the course of their official duties. "Official duties" for the purpose of this Rule includes but is not limited to any conduct or communication dealing with the Bar examination,

the character and fitness qualification review and investigation, and any other conduct involved in the licensing of persons seeking to be admitted to the practice of law in Guam.

(b) Qualified immunity. Those persons, including any person, firm, or institution, providing records, statements of fact or fact and opinion, or other information regarding an applicant for admission to the practice of law to the Board, its members and employees, shall be immune from civil suit for any conduct or communication sought or given in connection with the licensing of persons seeking to be admitted to the practice of law in Guam absent a clear and convincing showing that the information provided is defamatory and published by the informant with “actual malice”. For purposes of this rule, “actual malice” means the informant provided the defamatory information with (a) knowledge by the informant that the defamatory information was false at the time of its publication or, with (b) willful and reckless disregard of truth by the informant at the time of its publication. For purposes of this Rule, “defamatory” means that the statements or information tends to cast shame, contumely and disgrace upon the person referenced by the statement or information in question.

#### **Rule 1.08. Discoverability of Investigative Materials.**

All information provided, documents filed, or testimony given with respect to any investigation or proceeding under these Rules shall be privileged and nondiscoverable in any civil suit absent a court order finding that the movant seeking the discovery is

(1) the person who is referenced by the alleged defamatory statement or information which is the subject of the discovery request

(2) the information, document or testimony is sought to prove an action pursuant to Rule 1.06(b) only and

(3) the movant establishes a prima facie showing to the court of the elements necessary to sustain an action under Rule 1.06 (b) in regard to the document or information sought in the discovery request.

Any materials released pursuant to such court order will remain privileged as to any other use.

#### **Rule 2 -- Admission Requirements.**

##### **Rule 2.01. General Requirements for Admission to Bar.**

(a) The Board shall administer the Guam Bar Examination and shall inquire into the character and fitness of applicants for admission. The Board shall certify as fit to practice law those applicants who have established to the Board’s satisfaction that they possess the requisite character and fitness to practice law.

(b) A person is qualified for admission to the practice of law in the courts of Guam who proves to the satisfaction of the Board that the person

(1) is at least eighteen (18) years of age;

(2) is of good moral character and fitness;

(3) has not been convicted in any court of a felony or any crime involving moral turpitude committed against a person or entity to whom the applicant owed a fiduciary duty recognized by law;

(4) has completed at least two (2) years of college and has graduated from a law school in the United States, territories, or possessions which is accredited by the American Bar Association at the time of the person's graduation;

(5) has filed an application in accordance with these Rules;

(6) has passed the Guam Bar Examination given by the Board, with a combined Multistate Bar Examination (MBE) and Essay/Multi-state Performance Test (MPT) examination score of at least 132.50 points; or has passed the Attorneys exam with a score of at least 70; and,

(7) has passed the Multistate Professional Responsibility Examination (MPRE) with a score of at least 80 points.

### **Rule 2.02. Educational Requirements.**

(a) Applications to take the Guam Bar Examination which show on their face that the applicant has been certified as fit to practice law and has satisfied the undergraduate and legal education requirements of these Rules shall be approved by the Board. An applicant must have graduated with a J.D. or a LL.B. degree from a law school within the United States, its territories, or possessions and which is accredited by the American Bar Association at the time of the applicant's graduation. No correspondence law school may be so approved. No graduate degree in law (LL.M., M.C.L., S.J.D.) is or should be a substitute for the first professional degree in law (J.D.) and no graduate degree in law will qualify as meeting the legal educational requirements for admission to the bar.

(b) Transcripts or certifications showing an applicant's education eligibility to take the examination are required directly from the schools involved prior to examination. Hand-delivered and unofficial transcripts are not accepted. An applicant whose educational evidence has not been received prior to the date of the bar examination may not be permitted to take the examination. It is the applicant's responsibility to ensure that evidence of his or her educational qualification to take the examination is received by the Board in a timely manner.

### **Rule 3 -- Application, Examination and Scores.**

#### **Rule 3.01. Application for Admission by Examination.**

The Board shall prepare suitable application forms for admission by examination, and may require that the applications be accompanied by appropriate evidence that the applicant meets all criteria contained herein.

In applying for admission to practice, applicants should bear in mind the following:

(a) Deadlines specified in the Rules are rigidly adhered to. Unless otherwise indicated, postmarking by a deadline date satisfies the filing requirement.

(b) Applications are not considered filed until all information called for has been transmitted and all required fees have been paid. Fees may be paid by personal check but if

the check is not honored, the application will not be considered as filed until a cashier's check or money order for the fee, plus any returned check fees, are received. Thus, if an application is filed on or near a deadline and the fee is paid by a personal check which is returned unpaid, and a cashier's check or money order, which includes the returned check fee, is received after the deadline, the application will not be considered as timely filed, and payment of an additional non-refundable late fee will be required.

(c) The Essay/MPT and MBE examinations must be taken and passed in one attempt. Bifurcation of these exams is not allowed. The MPRE, however, may be taken prior to or after the two-day Guam Bar Examination.

(d) MBE transfers from earlier Guam administrations of the examination or from another jurisdiction are not accepted; however, scores of 80 scaled MPRE, or higher may be transferred from other jurisdictions for up to one year after the test date on which the passing score was achieved. Upon passing the Guam Bar Examination, an applicant must successfully sit for the MPRE examination within two (2) years of the test dates during which he/she passed the Guam Bar Examination.

(e) Guam has no admission by comity or reciprocity. Everyone must take the entire two-day examination unless eligible to take the Attorneys Exam pursuant to Rule 4. As a limited exception to this policy, and upon payment of an administrative fee to the Board in the amount of Three Hundred Twenty Five Dollars (\$325), a person who has been admitted as an attorney of the highest court of any state, district, commonwealth, territory or possession of the United States, and who is in good standing in such other jurisdiction may practice law in Guam as a temporary active member of the Guam bar pursuant to order of the Chief Justice of the Supreme Court of Guam for a period of five (5) years which shall run continuously and uninterrupted from the day of the order, with such temporary practice of law expressly limited to full time employment with the Government of Guam, its agencies, offices, authorities, public corporations, branches, and instrumentalities, and the Guam Legal Services Corporation. Any person who was a temporary member of the Guam Bar and did not take the bar examination before the effective date of this rule may be admitted pursuant to order of the Chief Justice for an additional period of three (3) years which shall run continuously and uninterrupted from the day of the latter order by the Chief Justice admitting said person as a temporary active member of the Guam Bar. Any person who was a temporary member of the Guam Bar and took the bar examination before the effective date of this rule may be admitted pursuant to order of the Chief Justice for an additional period of two (2) years which shall run continuously and uninterrupted from the day of the latter order by the Chief Justice admitting said person as a temporary active member of the Guam Bar. Such person(s) must seek an order from the Chief Justice requesting the additional period of admission as a temporary active member of the Guam Bar, and must pay the administrative fee in the amount of Three Hundred and Twenty Five Dollars (\$325). However, for any person who is applying for temporary admission under this rule and who has had a Character & Fitness Report prepared by the NCBE within twelve (12) months of seeking temporary admission, the administrative fee paid to the Board shall be Seventy-Five Dollars (\$75).

Under no circumstances will any temporary admission under this Rule exceed the maximum period of five (5) years.

The Board shall inquire into the character and fitness of every person seeking admission under this rule and any orders of temporary admission shall be expressly conditioned upon the Board's subsequent certification of the person's character and fitness to practice law. Any motion for temporary admission under this rule must be accompanied by the Standard-07 Application which is the Character & Fitness Request prepared by the NCBE. Any previous order by the Chief Justice admitting a person as a temporary active member of the Guam Bar shall remain in full force and effect.

(f) Transcripts or certifications showing an applicant's education eligibility to take the examination are required directly from the schools involved prior to examination. Hand-delivered and unofficial transcripts are not accepted. An applicant whose educational evidence has not been received prior to the date of the bar examination may not be permitted to take the examination. It is the applicant's responsibility to ensure that evidence of his or her educational qualification to take the examination is received by the Board in a timely manner.

(g) The Multistate Essay Exam portion of the Guam Bar Examination is developed by the NCBE, and the essays administered are selected by the Guam Bar Examiners from several made available by the NCBE. The Essay exam is graded by a subcommittee of the Board under the direction of the Board. Unless an essay question expressly asks for Guam Law, it should be answered according to legal theories and principles of general application. Essay answers shall be written in the answer booklets provided. Additional answer sheets will be provided to applicants who require additional writing space.

(h) The MPT is administered in conjunction with the Essay exam. It is a practical test of an applicant's ability to apply legal reasoning and authorities to specific legal issues. The test booklet includes both a "library" of authorities and a "file" that provides a factual background to the problem presented in the test. The test question is developed by the NCBE, and selected by the Guam Bar Examiners from several made available by the NCBE. The MPT is graded by a subcommittee of the Board under the direction of the Board. MPT answers will be written in the answer sheets provided with the test.

(i) One local question is administered in conjunction with the MEE and MPT. The local question may take the form of an essay question, true/false questions, or multiple choice questions.

### **Rule 3.02. Application Forms.**

(a) The Board shall develop and publish forms, prescribe the information which must be furnished by the applicants, and shall establish requirements for updating of application forms for admission by examination.

(b) An application shall consist of:

(1) the Registration Form; and

(2) the Standard-07 Application which is the Character & Fitness Request prepared by the NCBE.

### **Rule 3.03. Application Deadlines.**

Deadlines specified in this Rule are rigidly adhered to. Unless otherwise indicated, postmarking by a deadline date satisfies the filing requirement.

(a) Regular Filing Deadline. To be considered timely filed, applications for admission to practice law must be filed with the Board by the first day of December preceding the February bar examination, and by the first day of May preceding the July bar examination.

(1) Any person who was unsuccessful on any examination shall be allowed ten (10) business days from the date of the general announcement of examination results in which to file an application to take the next examination if such announcement falls on, after, or within five (5) business days prior to the application deadline provided above.

(2) To be considered timely, applications must be accompanied by all requisite fees and supporting documentation (including the fingerprint card, certificates of good standing and recent passport photograph), and be received on or before the day of the deadline. For application deadlines which fall on a weekend or holiday, applications will be accepted on the following business day.

(3) Applications filed prior to the timely filing deadline which are incomplete or otherwise deficient shall be returned, but may be re-filed prior to the late filing deadline. Upon receipt of the application, the Board shall make every effort to timely return incomplete or deficient applications; however, it is the applicant's responsibility to submit a proper and complete application. The Board bears no responsibility for not immediately returning an application, received prior to the timely filing deadline, within enough time for said application to be re-filed without incurring a late fee.

(b) Late Filing Deadline. Applications for admission to practice law may be filed with the Board subsequent to the regular filing deadline, but must be filed no later than the second day of January preceding the February Bar Examination, and the first day of June preceding the July Bar Examination. All applications filed after the regular filing deadline and within the late filing deadline will be subject to an additional late fee.

### **Rule 3.04. Fees and Refunds.**

(a) The regular filing fee for all applicants for the Guam Bar Examination is \$625.00. The late filing fee is \$875.00 (\$625.00 regular filing fee, plus \$250.00 late fee). The bar examination application fee is non-refundable except if an applicant withdraws not less than twenty-one (21) days prior to an examination, the applicant shall be refunded 50% of the regular filing fee, otherwise no portion of the fee paid shall be refundable. The Board may, at its sole discretion, upon an applicant's showing in writing of good cause therefore, allow the fees paid for a particular seating of the bar examination to be applied to the next succeeding exam provided, however, that, except upon a showing of extraordinary circumstances, such request is made not less than ten (10) days prior to the commencement of the exam from which the applicant is

seeking to withdraw. The fee for an applicant who is a temporary member (pursuant to Rule 3.01 (e)) shall be reduced by the cost of the character and fitness investigation.

(b) Applications are not considered filed until all information required has been supplied and all fees have been paid. Fees may be paid by personal check, but if the check is not honored, the application will not be considered as filed until a cashier's check or money order for the fee plus any returned check fees are received.

If an application is filed on or near a deadline and the fee is paid by a personal check which is returned unpaid, and a cashier's check or money order, which includes the returned check fee, is received after the deadline, the application will not be considered timely filed. In this instance payment of an additional non-refundable late fee will be required (if remitted before the late filing deadline) or the applicant will not be allowed to sit for the examination (if remitted after the late filing deadline).

(c) Repeat takers must complete and file a new application with appropriate fees for each examination. A current certificate of Good Standing must be resubmitted from each jurisdiction to which the applicant is admitted. There is no limit to the number of times an applicant may take the bar examination.

(d) The Guam Bar Examination shall be administered and graded on an anonymous basis. Each applicant shall be assigned a number at random which will be used to identify the applicant's answers to the bar examination.

### **Rule 3.05. Admission: Fees; Expenses; Compensation.**

All fees required to be paid by applicants for admission to the Bar shall be paid to the Board.

### **Rule 3.06. Guam Bar Examination.**

The Guam Bar Examination will consist of two parts: (1) *the* Essay Examination/Multistate Performance Test section (Essay/MPT) and (2) the Multistate Bar Examination section (MBE). The Essay/MPT and MBE examinations must be taken and passed in one attempt. Bifurcation of the Guam Bar Examination is not allowed. More information on the MEE, MPT and MBE can be obtained through the NCBE website, at: <http://www.ncbex.org/tests.htm>.

(a) Essay/MPT. The Essay/MPT section of the Guam Bar Examination consists of the Multistate Essay Examination, the Multistate Performance Test, and the Local Question. All components of the Essay/MPT portion of the Guam Bar Examination consist of questions which are selected by the Board based upon criteria that will best determine whether the applicant is qualified to be admitted to the practice of law in Guam. All answers shall be written in the booklets provided during the exam, or typed in accordance with these rules.

(1) Multistate Essay Examination. The Board adopts use of the Multistate Essay Examination (MEE). The Board will select six (6) of nine (9) essay questions prepared by the NCBE. The MEE is a three-hour examination consisting of six questions. The examination is administered in one continuous three-hour time period. Applicants are expected to spend approximately thirty minutes answering each of the questions. Beginning with the July 2007 bar exam, the areas of law that may be covered on the MEE include the following: Business Associations (Agency and Partnership;

Corporations and Limited Liability Companies), Conflict of Laws, Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Family Law, Federal Civil Procedure, Real Property, Torts, Trusts and Estates (Decedents' Estates; Trusts and Future Interests), and Uniform Commercial Code (Commercial Paper (Negotiable Instruments); Secured Transactions). Some questions may include issues in more than one area of law.

(2) Multistate Performance Test. The MPT question is prepared by NCBE. The Multistate Performance Test (MPT) consists of one 90-minute skills question covering legal analysis, fact analysis, problem solving, resolution of ethical dilemmas, organization and management of a lawyering task, and communication. The MPT is designed to test an applicant's ability to use fundamental lawyering skills in a realistic situation.

(3) Local Question. The local question may be in an essay, multiple-choice, or true/false format. The Board shall provide all applicants with a list of local authorities in order to prepare for the local question. The authorities will be provided to you for preparation purposes only. You will not be permitted to consult with these authorities during the examination.

(b) Multistate Bar Examination. The Board adopts the use of the MBE, as prepared and graded by the NCBE, provided, however, that questions on the MBE shall not be made public in any manner unless authorized by the NCBE. The MBE is an objective six-hour examination containing 200 questions. The examination is divided into two periods of three hours each, one in the morning and one in the afternoon, with 100 questions in each period. The examination includes questions in the following areas: Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Real Property, and Torts.

(c) Grading. Answers to the Essay/MPT portion of the Guam Bar Examination shall be graded by or under the direction of the Board, which shall pass upon the merits of papers submitted in answer to questions on the essay part of the bar examination. Answers to the MBE section of the Guam Bar Exam are centrally scored by NCBE. An applicant's overall Essay/MPT score will be a composite of the scores for the six (6) MEE questions, the local question and the one (1) MPT question, scaled to the MBE scores. The average on the Essay/MPT portion will be achieved by multiplying the MPT score by two (2), adding that to the combined score of the six (6) MEE questions and the local question, and dividing the resulting total by nine (9). The overall Essay/MPT score will be calculated by scaling the average Essay/MPT score to the MBE results for that particular test administration. The Board adopts the scaling method found in the attached article: *Susan M. Case, The Testing Column, Demystifying Scaling to the MBE: How'd You Do That?*, The Bar Examiner, Vol. 74, No. 2, May 2005, at 45-46, published by the NCBE. Scaling of the average essay scores will not be performed for calculating the overall essay scores of applicants taking the attorney's examination. For applicants taking the attorney's examination, the average Essay/MPT score will serve as the overall Essay/MPT score.

### **Rule 3.07. Passing of Examinations.**

(a) The MBE and Essay/MPT examination scores shall be combined and an applicant must achieve a combined score of at least 132.50 points to pass. The formula applied to determine the combined score is as follows:

the overall Essay/MPT score as scaled to the MBE, is added to the scaled MBE score with the resulting total divided by two (2) - ((Overall Essay/MPT + scaled MBE score) / 2 = combined score).

(b) The Board shall notify each bar applicant whether or not the applicant passed the examination as soon as practicable.

### **Rule 3.08. Multistate Professional Responsibility Examination.**

(a) The Board shall require each applicant to pass the separately administered Multistate Professional Responsibility Examination (MPRE) with a scaled score of 80.00 or higher.

(b) The MPRE may be taken prior to or after the two-day Essay/MPT/MBE examinations. An applicant must pass the MPRE examination within two (2) years before or after the test date(s) during which the applicant passed the Essay/MPT/MBE exams.

### **Rule 3.09. Transferability of Scores.**

(a) MBE transfers from earlier Guam administrations of the examination or from another jurisdiction are not accepted. However, scores from a Guam administration of the MBE may be transferred to other jurisdictions. Requests for the transfer of MBE scores must be made directly with the NCBE.

(b) Requests for the transfer of MPRE scores must be made directly with the NCBE.

### **Rule 3.10. Time and Location of Examinations.**

The Board shall conduct two examinations annually, each of which shall be held in the Guam Judicial Center, 120 W. O'Brien Dr., in Hagåtña or such other location as the Board may designate. Each examination shall be conducted on any two successive days and will be scheduled so as to coincide with the administration of the MBE prepared by the NCBE. One of the two days will comprise the Multistate Bar Examination while the other will be dedicated to the Essay/MPT.

### **Rule 3.11. Administration of the Bar Examination.**

(a) The examination of each applicant shall be done in such a manner that the examination paper is not identifiable by name to the members of the Board.

(b) The Board shall appoint a sufficient number of monitors to ensure the examination is conducted in an orderly and expeditious manner and to ensure no applicant is given or receives aid in taking the examination. To facilitate the orderly administration of the exam, examinees who arrive at the designated testing site after the examination has begun will be barred from entry and will not be allowed to participate in that block of testing. To avoid distracting other examinees, persons sitting for the exam will be required to ask any questions of the test administrator(s) prior to the commencement of the test; no queries will be entertained when the exam is underway. The Board shall establish any other rules and procedures to ensure the security and integrity of the bar examination before, during, and after it is administered. Any

Board member or the test administrator may exclude any applicant from an examination *who does not wear appropriate attire or who is disruptive or uncooperative.*

(c) Each applicant shall, by taking the examination, be deemed to have sworn the following with respect to each question:

“I solemnly swear or affirm that I have no previous information as to the contents of the questions upon which I have been examined and that I have not received directly or indirectly, from any source whatever, any assistance, but that I wrote the answer exclusively from my knowledge.”

The applicants may also be required to write or type out the above oath and sign their signatures attesting to the truth of their statement during any part of the bar examination.

### **Rule 3.12. Typing the Essay Examination.**

(a) Any applicant desiring to type the essay portion of the examination may do so if he/she has indicated such on the application to take the examination. However, no additional time will be provided for this method of taking the Essay examination. Typed answers to the essays must be on one side of the page only, double-spaced, and within the margins on the paper provided.

(b) All requests to type the examination must be submitted in writing at least three (3) weeks before the examination.

(c) Applicants must furnish their own typewriters. Those who wish to use electric typewriters will be permitted to do so with the understanding that the Board assumes no responsibility for any power failure. Applicants using electric typewriters must be prepared to continue the examination by writing in the event of any power failure, whether the failure is widespread or limited. Likewise, applicants must be prepared to write their examinations if a typewriter malfunction prevents them from typing.

(d) The outlets provided are not to be used for anything other than an electric typewriter, i.e. no battery chargers, lamps, etc. Further, no applicant may have more than one typewriter plugged in at any one time. No extra time or any other consideration will be allowed for power failure or interruption or for any mechanical breakdown of any typewriter.

(e) Typewriters with a memory or programmable capability, regardless of its current state of repair, shall not be used in completing answers to questions appearing on the Guam Bar Examination. This includes typewriters with a calculator, calculator function, dictionary, or spell check.

(f) "Memory capability" includes typewriters with external plug-in memory modules, even if the module is not brought to the examination. Typewriters that require a battery to maintain memory or any other restricted feature will be rejected, even if batteries are removed and not brought to the examination.

(g) Applicants intending to use typewriters during the Essay examination shall submit the typewriter, whether electric or manual, to the Board for inspection by 9:00 a.m. on the day prior to the first day of the examination. Failure to timely submit the typewriter for inspection will

prevent the applicant from using a typewriter and the applicant must therefore handwrite the examination.

(h) After inspection, the Board will determine whether any particular typewriter can be used during the examination. The decision by the Board is final and not appealable.

(i) Typewriters approved for use during the examination shall be left at the examination test center at the time of inspection. The Board shall not be responsible for any damage to or loss of the typewriters.

(j) Approval of a specific typing instrument for this examination does not constitute approval of the same instrument for future examinations.

### **Rule 3.13. Examination of Applicants with Special Needs.**

All reasonable steps shall be taken by the Board to facilitate the examination of applicants with a special need or special needs. Applicants with a special need or special needs must notify the Board of any reasonable accommodation(s) needed. Absent good cause, such notification shall be filed at the time of the application but in no event later than two (2) weeks prior to the first day of the examination. The applicant may be required, as needed, to provide appropriate documentation to the Board. For the purpose of this rule, "special need or special needs" means physical or mental impairment that substantially limits one or more of the major life activities of such individual.

### **Rule 3.14. Misconduct.**

(a) If, during an examination, evidence is brought to the Board's attention regarding conduct by an applicant which may violate any law or rule governing the examination, the Board shall cause an immediate investigation to be made. If the Board determines that an applicant has violated any law or rule governing the examination, it shall immediately disqualify the applicant from the examination.

(b) If at any time it shall appear to the Board that there is credible evidence which would establish that an applicant has:

- (1) falsified the application or proofs required for admission to the bar exam;
- (2) falsified the proofs required for admission to practice with or without examination;
- (3) falsified the documentation submitted in support of a request for test accommodations under these Rules or secured such documentation under false pretenses;
- (4) purposely failed to provide relevant information;
- (5) utilized any unauthorized notes, books, recordings, electronically retrieved data or unauthorized materials while taking the bar examination, or secreted such materials for such use;
- (6) obtained or used answers or information from or given answers or information to another applicant or any other person while taking the bar examination;

(7) written or designated any answers to questions on the bar examination prior to the announcement of the beginning of the examination session or after the announcement of the conclusion of the session;

(8) removed any examination materials or other notes made during the examination from the examination room;

(9) defaced, altered or stolen any examination materials after the administration of the examination; or

(10) done any of the above or compromised the process for admission to or administration of the bar examination;

then, the Board shall serve written charges on such applicant by certified mail, stating with particularity the facts on which such charges are based.

(c) The applicant, no later than 30 days after the service of charges may cause to be delivered to the office of the Board a verified answer to such charges. Such answer shall identify with specificity the charges disputed by the applicant, who shall set forth any evidence which can be adduced by the applicant in contradiction of such charges. The applicant may include in such written answer a request that the Board hold a hearing.

(d) In the event such applicant does not submit a written answer as provided in Subsection (c) the Board shall deem the facts set forth in the written charges to be true.

(e) The Board, on its own motion or at the request of such applicant, shall set a date for an adjudicatory hearing. The hearing may be held before a single member of the Board appointed by the chairman or before the Board as a whole or before a member of the Guam bar appointed as Hearing Officer by the Board. The applicant may be represented by counsel, and the hearing shall be reported and transcribed by a certified reporter.

(f) The hearing shall be conducted pursuant to the procedures set forth in Subsections (b) and (c) of Rule 6.01 of these Rules.

(g) The applicant shall be entitled to be represented and advised by counsel at his own expense at every stage of the proceeding. Any person who voluntarily appears or who is compelled to attend, and submit proof or testimony, at any hearing held pursuant to Subsection (e) of this Rule shall be entitled to be represented and advised by counsel at his own expense.

(h) If the applicant shall be found to have violated any of the provisions set forth in Subsection (b) of this Rule by reason of:

(1) applicant's admission that such charges are true, in whole or in part; or

(2) applicant's being in default in answering the specifications, in whole or in part; or

(3) determination of the Board, after a hearing, such determination shall be set forth in the Board's written decision, which shall be delivered to the applicant by certified mail, and some or all of the following penalties, and any other penalty which the Board may deem appropriate, may be imposed:

(A) forfeiture of all fees paid by the applicant;

- (B) nullification of the examination taken or the application made by the applicant;
- (C) disqualification of the applicant from taking the Guam Bar Examination or applying for temporary or pro hac vice admission for a period to be determined by the Board;
- (D) transmission of a written report of the matter to the NCBE Character and Fitness Division;
- (E) transfer of a written report of the matter to the Bar Admission Authority in any jurisdiction.

**Rule 3.15. Notice, Review, and Regrade of Scores.**

(a) At the time the results of the Guam Bar Examination are announced, the Board shall give written notice to those applicants who failed to obtain an overall passing score on either the combined MBE and Essay/MPT examination, or MPRE, which ever is applicable. The notice shall be sent by certified mail, return receipt requested, to the home address listed on the applicant's bar application, unless the applicant requests in writing that notice be sent to a different address. The notice shall contain the following information:

- (1) That the applicant did not receive a passing score on the examination.
- (2) That the Board has denied the applicant's application for admission to the Guam Bar.
- (3) The applicant's combined MBE and Essay/MPT score, or MPRE score.
- (4) That the applicant may appeal the decision of the Board by filing a written request for review of his test scores as provided for in this rule.
- (5) That the applicant's written request for a review or appeal of his test scores must be received within thirty (30) days of mailing of the notice of non-passing score.

(b) An applicant who fails the Guam Bar Examination may review the essay portion of the exam and/or file an appeal of such scores if eligible, to the extent and in the manner provided for in this section. All requests to review or appeal must be signed and dated by the applicant, and shall be directed to the Board and submitted to the Clerk of the Supreme Court of Guam. If submitted by mail, the request for review shall be addressed to the:

GUAM BOARD OF LAW EXAMINERS  
c/o CLERK, Supreme Court of Guam  
Suite 300, Guam Judicial Center  
120 West O'Brien Drive  
Hagåtña, Guam 96910

All requests for review or appeal must be received by the Clerk of the Supreme Court within thirty (30) days following the mailing of the notice of non-passing score. When the request is served by mail, an additional five (5) days shall be added to the thirty (30) day period.

- (1) Post-examination Review of Essay Materials. An applicant who fails the bar examination may review the essay portion of the exam, as follows:

(A) A review of the essay portion of the examination will include a review of the MEE, the Local Question, and the MPT. The MBE portion of the exam is not reviewable.

(B) The applicant's answers, and the examiner's essay questions and model answers thereto, shall be made available to the applicant, who may conduct a review of the materials under the supervision of the Board secretary or her designee, at a date, time, and place designated by the Board.

(C) The applicant will be allowed up to three consecutive hours to review and take reasonable notes from the materials provided. The applicant will not be allowed to remove the questions, answers, or the model answers from the room. Copies of the materials will not be provided.

(D) The applicant conducting a review shall not discuss the exam materials with the person supervising the review. All questions and comments concerning the exam as a result of the applicant's review shall be received by the Board in writing within ten days after the review.

(2) Appeal: Request for Regrade.

(A) To be eligible for an appeal of the essay portion of the exam, an applicant must have received a combined score on the exam of 130.50, such that it comes within two points of a passing score. The appeal shall be in the form of a written request for a regrade.

(B) The MPT shall not be subject to a re-grade.

(C) Upon approval by the Board of the applicant's request for a re-grade of the essay portion of the exam, the applicant shall be provided all essay scores, and shall be granted a review of the essay materials as provided in Subsection (b)(1) of this Rule. The applicant shall select a maximum of three (3) essay questions for regrade. The applicant's written designation of the essay or essays selected for regrade shall be received by the Board within ten days following the review of the essay materials as provided by Subsection (b)(1) of this Rule. The Board shall request the Subcommittee on Drafting and Grading to re-grade the applicant's designated essay(s), and the Subcommittee shall conduct its review and forward its results to the Board.

(D) Upon the review of an applicant's regraded examination scores, as provided in the rule, the Board will notify the applicant, in writing, of the Board's decision on the applicant's appeal based on the regrade. The decision of the Board is final, except that a petition for reconsideration of the Board of Law Examiners' decision may be filed with the Board if the petitioner can show that the proceedings before the Board were likely affected by fraud.

(E) The applicant shall remit a fee of \$100.00 along with the request for regrade, in order to alleviate the cost of copying, processing, reviewing, handling and mailing the applicant's appeal. The applicant shall not be entitled to a refund of this fee.

### **Rule 3.16. Filings.**

All filings required to be made shall be made with the Board. Unless otherwise indicated, filings placed in the United States mail, properly addressed to the Board and bearing sufficient first class postage and postmarked by or on a deadline date, will be considered as having been timely filed if all information called for and all required fees are included in the mailing. Mailings which are postmarked after a deadline or which, if postmarked by or on a deadline date, are incomplete or which do not include required fees or which include a check in payment of required fees which is not honored by the drawee bank will not be considered as timely filed.

**Rule 4 -- Attorneys Exam.**

**Rule 4.01. Attorneys Exam.**

(a) Eligibility for Admission by Attorney Examination - Generally. A person who has been admitted by examination as an attorney of the highest court of any state, district, territory or possession of the United States (including the District of Columbia), or the Commonwealth of the Northern Mariana Islands, for at least five (5) years, may be permitted to take the attorney's examination upon the applicant's compliance with the following conditions:

(1) File the application form prescribed under Rule 3.02 of these Rules within the deadlines set forth in Rule 3.03 of these Rules, which shall include the following:

- (A) Registration Form
- (B) NCBE Character Report & Applicant Questionnaire Form
- (C) Fees
- (D) Fingerprint Card
- (E) Official Law School Transcript

(2) Satisfy the education requirements as set forth in Rule 2.02 of these Rules;

(3) Provide the Board with Certificates of Good Standing from all jurisdictions where her/she is admitted;

(4) Certify that he/she has engaged in the active practice of law, as defined in subsection (b) of this Section, for at least five (5) years immediately preceding the filing of his/her application;

(5) Certify his/her intention to engage in the active practice of law in Guam.

(b) Definition of Practice of Law. For purposes of admission under this Rule, the active practice of law for at least five (5) years immediately preceding the filing of the application means being substantially (meaning fifty percent or more) and lawfully engaged, in the following activities, or the equivalent thereof: as a sole practitioner, as a partner or associate of a private or public law firm, as a legal officer of a corporation or other business organization, as a governmental employee whose duties are primarily providing legal advice or representation of the governmental agency in the courts, as a legal officer in the Armed Services, as a judge, magistrate, administrative judge or referee, or law clerk to a judge, or as a full time teacher in a law school approved by the American Bar Association. Practice of law which qualifies for purposes of this Section must have occurred within a jurisdiction in which the applicant was then

admitted to practice law and must have occurred while the applicant was licensed by and in good standing with the court or other agency having authority over the practice of law in such jurisdiction.

(c) Attorney's Examination. The applicant shall bear the burden of establishing by clear and convincing evidence his/her eligibility for admission under this Section. A person who has satisfied the conditions set forth in subsection (a) of this Section shall only be required to take the attorney's examination, which shall consist of the following portions of the regular examination as described in Rule 3.06 of these Rules: the Multistate Essay Examination (MEE), Multistate Performance Test (MPT), and the Local Question. The attorney's examination shall not consist of the Multistate Bar Examination (MBE) component of the regular examination. Attorney applicants are required to take and pass the MPRE, in accordance with Rule 3.08 of these Rules, as a condition of admission.

(d) Fees. The timely filing fee for admission by attorneys' examination is \$1075. The late filing fee is \$1325 (\$1075 timely filing fee, plus \$250.00 late filing fee). The fee shall be submitted together with the application form required under subsection (a)(1) of this section. If the Board determines on the face of the application that the applicant is not qualified to sit for the attorneys examination and the applicant elects to withdraw the application without further proceedings, all fees shall be refunded. If in other circumstances an applicant withdraws the application or fails to attend and take the examination without permission from the Board, no fees will be refunded and the examination fee may not be applied to a subsequent examination unless the applicant establishes good cause for the withdrawal or failure to attend, provided, however, that, except upon a showing of extraordinary circumstances, such request is made not less than ten (10) days prior to the commencement of the exam from which the applicant is seeking to withdraw. The fee for an applicant who is a temporary member (pursuant to Rule 3.01 (e)) shall be reduced by the cost of the character and fitness investigation.

(e) Passing Score and Review. A passing score on the attorney's examination shall be 70.00, computed by:

(1) taking the sum of the individual scores for each MEE question, the Local Question, and MPT question multiplied by two; and

(2) dividing the sum by 9. E.g.:

$$\text{MEE 1} + \text{MEE 2} + \text{MEE 3} + \text{MEE 4} + \text{MEE 5} + \text{MEE 6} + \text{LQ} + 2 (\text{MPT}) 9$$

A review of an applicant's examination scores shall be permitted in accordance with section 10 of Part B of these Rules. An attorney examination applicant shall be eligible for a review only if the applicant received a score of at least 68.00 on the exam, such that it comes within 2 points of the passing score.

(f) Applicability of Rules; Certification for Admission. Attorney examinees shall be subject to and have the benefit of all the provisions of these Rules which are not inconsistent with the provisions of this section. Attorney examination applicants shall be certified as eligible for admission in accordance with Rule 7.01(b) of these Rules.

### **Rule 5 -- Requirement of Good Moral Character of Applicant.**

### **Rule 5.01. Investigations into Character and Fitness.**

Prior to certifying an applicant as having the integrity and character requisite to be a member of the Guam Bar Association, the Board shall make such investigation as it deems necessary into the character, reputation and background of the applicant. Each applicant shall provide written authority to the Board to conduct such investigation, and each applicant shall authorize all persons to furnish the Board with such information and documents as it may request. The authority granted to the Board shall expire upon the applicant's admission to the practice of law on Guam, denial of his application, or upon the applicant's written withdrawal of his application.

### **Rule 5.02. Requirement of Good Moral Character.**

No person shall be admitted to the practice of law in Guam, either by examination or on motion without examination, unless such person demonstrates to the Board, that he or she possesses good moral character, is mentally and emotionally stable, and is in good standing in every jurisdiction in which he or she has been admitted to practice and maintains an active status: Provided, that this rule shall not apply to an attorney admitted under Rule 8.01.

### **Rule 5.03. Evaluation of Applicants for Good Character, Fitness to Practice, and Financial Responsibility by NCBE and Board.**

(a) Character Investigation. Each applicant shall undergo a character investigation by the NCBE.

(b) Review by the Board. The Board shall review the application to determine whether the applicant has provided character and fitness evidence. The Board shall consider, in the manner set forth under Rule 5.04, whether the evidence meets the standard of character and fitness set forth in Rule 5.02.

(c) Adverse Factors Generally. The following factors, among others, adversely reflect on an applicant's character and fitness to practice law and may constitute cause for additional inquiry or a recommendation to deny the application:

- (1) unlawful conduct;
- (2) academic misconduct;
- (3) false statements;
- (4) relevant and material omissions;
- (5) misconduct in employment;
- (6) acts involving, dishonesty, fraud, deceit, or misrepresentation;
- (7) abuse of legal process;
- (8) neglect of professional obligations;
- (9) violation of a court order;
- (10) denial of admission in another jurisdiction on character or fitness grounds;
- (11) legal or professional disciplinary action in any jurisdiction;

(12) failure to conform conduct to the requirements of the law;

(13) a pattern of offenses, even ones of minor significance indicating indifference to legal obligation; and

(14) financial irresponsibility.

(d) Mitigating Factors Generally. When reviewing an applicant's conduct, the following factors, among others, may be considered as mitigating factors:

(1) the applicant's age at the time of the conduct;

(2) when the conduct occurred;

(3) reliability of the information concerning the conduct;

(4) seriousness of the conduct;

(5) circumstances in which the conduct occurred;

(6) the cumulative effect of conduct or information;

(7) evidence of rehabilitation;

(8) positive social contributions since the conduct;

(9) candor in the admissions process; and

(10) materiality of omissions or misrepresentations.

(e) Felony Convictions. An applicant who has previously been convicted of a felony or any crime involving moral turpitude or other serious crime carries a heavy burden of persuading the Board that he or she presently possesses good moral character sufficient to be invited into the legal community. Although such conviction will not as a per se bar to admission, the Board will presume the applicant ineligible for lack of good moral character unless he or she may persuade the Board otherwise. When assessing the moral character of an applicant whose background includes a criminal conviction, the following factors, which are intended to be illustrative rather than exhaustive, will be considered:

the applicant's age at the time of the conduct ;

the recency of the conduct;

the reliability of the information concerning the conduct;

the seriousness of the conduct;

the factors underlying the conduct;

the cumulative effect of the conduct or information;

the evidence of rehabilitation;

positive social contributions since the conduct;

the applicant's candor in the admissions process;

the materiality of any omissions or misrepresentations;

the opinions of character witnesses about the applicant's moral fitness.

However, a felony or crime of moral turpitude committed by the applicant against a person/entity to whom the applicant owed a fiduciary duty recognized by law, and which involved the breach of any duty owed to such person/entity, shall constitute conclusive evidence that the applicant lacks the good moral character and fitness required to practice law, and such conviction shall, without regard to any other factor, act as a bar to admission.

**Rule 5.04. Procedure for Demonstrating Good Moral Character.**

(a) Form of application. The applicant for admission to the bar shall file with the Board an application, in such form as may be prescribed by the Board from time to time, designed to obtain from the applicant such information concerning the applicant's personal history and previous conduct as may be necessary to determine his or her moral character and qualification for membership in the bar. The application shall be filed pursuant to the requirements of Rule 3.01, with regard to admission by examination, or Rule 4.01, with regard to admission without examination. A copy of the application shall be forwarded by the Board to the NCBE for investigation and preparation of a character report.

(b) Burden of proof. The applicant shall at all times have the burden of proving his or her good moral character before the Board. If an applicant fails to answer any question on the application or propounded by any member of the Board, or to supply any documentary material requested by them, the Board may find that the applicant has not met the burden of proving his or her good moral character.

(c) Documentary material. The applicant agrees that any and all documentary materials filed by the applicant in connection with his or her application may be offered into evidence, without objection, by the Board in any proceeding in regard to the applicant's admission to the practice of law.

(d) Procedure. After receiving the application from the Board and the character report from the NCBE, the Board shall promptly:

(1) determine whether to interview the applicant;

(2) verify the facts stated in the application and character report, determine whether to communicate with the references given therein, and make such further investigation as it may deem desirable or necessary;

(3) consider the character and fitness of the applicant to be admitted to the bar; and

(4) make a determination in regard to the character and fitness of the applicant for admission to the Bar.

If the Board ultimately determines that an applicant should not be admitted, it shall state so in writing.

(e) Continuing nature of investigation. The Board shall continue to have all applicants under observation and subject to further report until the date set by the Supreme Court of Guam for admission to the bar. Applicants shall be under the continuing obligation to notify the Board in

writing of any change, and the nature of such change, relating to any information sought in the application.

**Rule 5.05. Informal Conference, Permissive Withdrawal of Applications, Re-application.**

(a) If information is obtained during the investigation of an applicant that raises a question as to the applicant's character or fitness to practice law, the Board may require the applicant to appear, together with his counsel if he or she so desires, before the Board or any designated member for an informal conference concerning such information.

(b) If after such a conference the Board believes that certification of fitness to practice law would be inappropriate, it may, in lieu of denying certification, permit the applicant to withdraw his application upon the understanding that after a period of rehabilitation to be determined by the Board, but not to exceed three (3) years, it will accept a new application, accompanied by the appropriate initial filing fee, from the applicant for consideration.

**Rule 5.06. Re-application after Denial.**

The Board shall not accept a new application from an applicant who has been denied certification of fitness to practice law until three (3) years have elapsed from the date a tentative order of denial becomes final, a final decision is issued after a hearing and not appealed, or a final decision is affirmed by the Court, whichever date is applicable.

**Rule 5.07. Certification of Fitness to Practice Law.**

Upon being satisfied that an applicant who had previously been denied certification of fitness to practice law on Guam possesses the integrity and character requisite to be a member of the Guam Bar Association, the Board may certify the applicant as fit to practice law. The Board shall conduct such investigation as it deems appropriate under the circumstances. The Board may renew, decline to renew or take such other action with respect to renewal as it may take with an original applicant. An applicant for renewal shall have the same rights with respect to conferences, hearings and appeals as would an original applicant.

**Rule 5.08. Review of Certifications Prior to Admission to the Practice of Law.**

(a) Certifications of fitness to practice law shall be tentative until an applicant is actually admitted to the practice of law and may be reviewed by the Board upon its own motion or upon request for further review. In any case where further review is deemed necessary, the Board shall suspend the applicant's certification and shall so notify the applicant by certified mail.

(b) The Board thereafter shall not admit the applicant to an examination, or release the result of an examination taken prior to the receipt of such notice until the applicant's certification of fitness to practice law has been reinstated.

**Rule 5.09. Law Enforcement Officers: Aid in Investigations.**

It is the duty of all Guam law enforcement agencies to aid the Board, or its designee, in any investigation of the character and fitness of persons who apply for admission or reinstatement to the practice of law and to furnish all available information about such individual.

**Rule 6 -- Administrative Hearing.**

### **Rule 6.01. Administrative Hearing Procedure.**

(a) Request for hearing. Prior to final determination that an applicant shall not be certified as fit to practice law in Guam, the Board shall notify the applicant by certified mail that it has entered a tentative order of denial of his application for certification and advise the applicant of his right to a formal hearing with respect to the reasons for the Board's tentative denial. Within fourteen (14) days after receipt of this notice, the applicant shall file his written request for a formal hearing with the Board. If no request is filed within fourteen (14) business days after receipt of the notice, the Board's tentative order shall become final and non-appealable. If a request is filed, the Board shall prepare specifications of the reasons for the Board's tentative order and mail them by certified mail to the applicant. Within twenty (20) days of receipt of the specifications the applicant shall file his answers thereto, and if any specification is not denied, it shall be deemed to have been admitted by the applicant. In addition to answering the specifications, the applicant may assert any affirmative defenses he may have and any matters in mitigation he may wish to have considered.

(b) Formal hearing. At the Board's discretion the hearing may be held before a single member of the Board appointed by the chairman or before the Board as a whole or before a member of the Guam bar appointed as Hearing Officer by the Board. The applicant may be represented by counsel, and a record shall be made of the proceedings.

(c) Time for hearing. The time of the hearing shall not be less than twenty (20) days nor more than forty (40) days from the date of the receipt of the applicant's answers to the specifications. The Board or hearing officer may extend or shorten the time period for good cause shown. At the hearing before the hearing officer, the Board may designate a lawyer to represent it and to present such evidence bearing on the lack of qualifications of the applicant. The applicant shall have the right to present evidence in support of his or her qualifications and shall have the right to cross-examine any witness who appears at the hearing.

Prior to the hearing, written interrogatories may be served upon any witness not in Guam. The answers to the written interrogatories and any exhibits submitted with them shall be admissible as evidence at the hearing.

(d) Subpoena and contempt power. The Board shall have power to issue subpoenas through the Clerk of the Supreme Court. The Clerk shall prepare and have available for issuance at the request of the applicant or the Board, subpoenas returnable before the Board for attendance of witnesses or for the production of documentary evidence. Subpoenas, and other process of the Board, may be served in the same manner provided for service of subpoenas under the Guam Rules of Civil Procedure. The Board shall have jurisdiction co-extensive with the courts of Guam to compel the attendance of witnesses and the production of documents; and the failure of any person without adequate excuse to obey a subpoena or other process of the Board shall constitute contempt of the Board. All witnesses shall be entitled to such witness fees, mileage, and expenses as in any civil proceeding in this jurisdiction.

(e) Conduct of hearing. At the hearing, the Board or the hearing officer shall not be bound to strictly observe the rules of evidence but shall consider all evidence deemed relevant to the specifications and the answers, affirmative defenses and matters in mitigation in an effort to discover the truth without undue embarrassment to the applicant; provided, however, the Board's

investigatory file with respect to matters not placed in issue by the specifications, answers, affirmative defenses and matters in mitigation shall not be subject to discovery or introduction into evidence. The hearing officer shall make written finding of facts and recommendations to the Board, which, however, shall not be binding upon the Board.

(f) Review by Board. If, after the formal hearing or review of the recommendations of the hearing officer, the Board determines not to certify the applicant as fit to practice law in Guam, it shall so notify the applicant in writing by certified mail giving its reasons for its decision.

## **Rule 7 -- Admission.**

### **Rule 7.01. Admission Procedure.**

(a) Time Limitation for Satisfying Admission Requirements. The Board shall issue a certificate of eligibility, which shall be filed, along with a character report, with the Clerk of the Supreme Court of Guam, for every applicant who has complied with the requirements of the applicable rules and who has paid the statutory fee. The Board shall not certify an applicant to the Supreme Court for admission to practice law unless the applicant has satisfied all requirements for admission found in these Rules. To take the attorney's oath and be admitted to practice law in Guam, the applicant must take the attorney's oath within five (5) years of the last day of the administration of the Guam Bar Examination that the applicant passed, unless for good cause shown by clear and convincing evidence in a particular case the Board extends such time limitation. Delay in satisfying the admission requirements found in these Rules that is the result of an applicant's negligence shall not constitute good cause.

(b) Certification of Eligibility. The Board shall issue a certification of eligibility for admission to the practice of law to the applicant upon an applicant's passage of the bar examination, proof of certification of fitness to practice law, and proof of qualification based on the educational requirements under these Rules.

Certification may be in such form as the Board prescribes, including a letter, bearing the seal of the Board and signed by the Chairman of the Board, or any member of the Board designated by the Chairman.

(c) General procedure. An applicant who is eligible for admission may be admitted to the practice of law in Guam within the time limitations set forth in paragraph(a), by taking the oath hereinafter set forth before a Justice of the Supreme Court, a Judge of the Superior Court, the Clerk of the Supreme Court, or, upon approval of the Supreme Court, a judge or justice of a court of another jurisdiction, No applicant shall be admitted without taking the oath administered in accordance with these Rules An affirmation may be given in lieu of an oath. The date of oath is the actual admission date of new attorneys.

(d) Conditional admission. An applicant's admission to practice may be conditioned for a specified period of time, either upon the recommendation of the Board and approval by the Supreme Court, or by the Court upon its own motion. Conditions imposed may include supervised practice, substance abuse treatment and counseling, mental health treatment and counseling, financial counseling, or other terms. Recommendations for conditional admission shall be considered, but not binding upon the Court. At the conclusion of the conditional admission period, the Board shall make a written recommendation to the Court as to whether the

applicant is eligible for admission without conditions as having satisfied the terms of the conditional admission. The Court may revoke the conditional admission at any time.

(e) Oath of attorney. Upon being admitted to the practice of law in the courts of Guam, each applicant shall take and subscribe to the following oath or affirmation:

“I solemnly swear that I will support The Constitution of the United States, The Organic Act of Guam, the applicable statutes of the United States and the laws of Guam; that I will maintain the respect due to the courts of justice and judicial officers and that I will conduct myself honorably as an attorney at law; and that I will abide by the Guam Rules of Professional Conduct.”

(f) Certificate of admission. Each applicant admitted may receive a certificate of admission suitable for framing. Such certificate shall be issued, upon payment of a fee as set forth in the fee schedule, in the name of the Supreme Court of Guam and shall be signed by the Chief Justice.

(g) Duty of Clerk of Court. It is the duty of the Clerk of the Supreme Court, when a person is admitted to the Bar by such court, to keep a record of such admission in the roll of attorneys and to transmit promptly to the Bar without charge certified copies of admission. When a member of the Bar is suspended, or disbarred, or held in contempt, and when a person is reinstated as a member of the Bar, it is the duty of the Clerk of the Court so doing to transmit to the Bar without charge certified copies of such orders.

(h) Guam Bar Membership. No person is authorized to practice law on Guam, unless that person is a member in good standing of the Guam Bar Association, an integrated bar association.

## **Rule 8 -- Admission Pro Hac Vice.**

### **Rule 8.01. Admission in Pending Litigation before a Court or Agency.**

(a) Definitions

(1) An “out-of-state” lawyer is a person not admitted to practice law in Guam but who is admitted in another state, territory, or commonwealth of the United States or the District of Columbia and not disbarred or suspended from practice in any jurisdiction.

(2) An out-of-state lawyer is “*eligible*” for admission pro hac vice if that lawyer:

(A) lawfully practices solely on behalf of the lawyer’s employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work; or

(B) neither resides nor is regularly employed at an office in Guam; or

(C) resides in Guam but

(i) lawfully practices from offices in one or more other states and

(ii) practices no more than temporarily in Guam, whether pursuant to admission pro hac vice or in other lawful ways.

(3) A “client” is a person or entity for whom the out-of-state lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer’s performance of services in Guam.

(4) An “alternative dispute resolution” (“ADR”) proceeding includes all types of arbitration or mediation, and all other forms of alternative dispute resolution, whether arranged by the parties or otherwise.

(5) “Guam” refers to the jurisdiction promulgating this rule. This Rule does not govern proceedings before a federal court or federal agency located in Guam unless that body adopts or incorporates this Rule.

(b) Authority of Court or Agency to Permit Appearance by Out-Of-State Lawyer and Guam Lawyer’s Duties Generally.

(1) Court Proceeding. A court of Guam may, in its discretion, admit an eligible out-of-state lawyer retained to appear in a particular proceeding pending before such court to appear pro hac vice as counsel in that proceeding.

(2) Administrative Agency Proceeding. If practice before an agency of Guam is limited to lawyers, the agency may, using the same standards and procedures as a court, admit an eligible out-of state lawyer who has been retained to appear in a particular agency proceeding to appear as counsel in that proceeding pro hac vice.

(c) Guam Lawyer’s Duties. When an out-of-state lawyer appears for a client in a proceeding pending in Guam, either in the role of co-counsel of record with the Guam lawyer, or in an advisory or consultative role, the Guam lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the Guam lawyer to advise the client of the Guam lawyer’s independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.

(d) Application Procedure.

(1) Verified Application. An eligible out-of-state lawyer, seeking to appear in a proceeding pending in Guam as counsel pro hac vice shall file a verified application with the court where the litigation is filed. The application shall be served on all parties who have appeared in the case and the Guam Bar Ethics Committee. The application shall include proof of service. The court has the discretion to grant or deny the application summarily if there is no opposition. The applicant shall submit a copy of the verified application and the fee as set forth below to the Supreme Court of Guam.

(2) Objection to Application. The Guam Bar Ethics Committee or a party to the proceeding may file an objection to the application or seek the court’s imposition of conditions to its being granted. The Guam Bar Ethics Committee or objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The Guam Bar Ethics Committee or objecting party may seek denial of the application or modification of it. If the application has already been granted,

the Guam Bar Ethics Committee or objecting party may move that the pro hac vice admission be withdrawn.

(3) Standard for Admission and Revocation of Admission. The courts and agencies of Guam have discretion as to whether to grant applications for admission pro hac vice. An application ordinarily should be granted unless the court or agency finds reason to believe that such admission:

(A) may be detrimental to the prompt, fair and efficient administration of justice,

(B) may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent,

(C) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk, or

(D) the applicant has engaged in such frequent appearances as to constitute regular practice in Guam.

(4) Revocation of Admission. Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in Section 1(d)(iii) rule 8.01(D)(3) above.

(e) Application.

(1) Required Information. An application shall state the information listed on Appendix A to this rule. The applicant may also include any other matters supporting admission pro hac vice.

(2) Application Fee. An applicant for permission to appear as counsel pro hac vice under this Rule shall provide a non-refundable fee of \$1000.00 (One Thousand Dollars) payable to the Supreme Court of Guam, located on the third floor of the Guam Judicial Center, at the time of filing the application. The applicant shall furnish proof of payment to the court where the application is filed.

(f) Authority of the Supreme Court of Guam and the Guam Bar Ethics Committee: Application of Ethical Rules, Discipline, Contempt, and Sanctions.

(1) Authority over Out-of-State Lawyer and Applicant.

(A) During pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts and the Guam Bar Ethics Committee for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The applicant or out-of-state lawyer who has obtained pro hac vice admission in a proceeding submits to this authority for all that lawyer's conduct

(i) within Guam while the proceeding is pending or

(ii) arising out of or relating to the application or the proceeding.

An applicant or out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as a Guam lawyer.

(B) The court's and the Guam Bar Ethics Committee's authority includes, without limitation, the court's and the Guam Bar Ethics Committee's rules of professional conduct, rules of discipline, contempt and sanctions orders, local court rules, and court policies and procedures.

(2) Familiarity with Rules. An applicant shall become familiar with the rules of professional conduct, rules of discipline of the Supreme Court of Guam, local court rules, and policies and procedures of the court before which the applicant seeks to practice.

**Rule 8.02. Out-of-State Proceedings, Potential Guam and Out-of-State Proceedings, and all ADR.**

(a) Guam Ancillary Proceeding Related to Pending Out-of-State Proceeding. In connection with proceedings pending outside Guam, an out-of-state lawyer admitted to appear in that proceeding may render in Guam legal services regarding or in aid of such proceeding.

(b) Consultation by Out-of-State Lawyer.

(1) Consultation with Guam Lawyer. An out-of-state lawyer may consult with a Guam lawyer concerning the Guam lawyer's client's pending or potential proceeding in Guam.

(2) Consultation with Potential Client. At the request of a person in Guam contemplating a proceeding or involved in a pending proceeding, irrespective of where the proceeding is located, an out-of-state lawyer may consult in Guam with that person about that person's possible retention of the out-of-state lawyer in connection with the proceeding.

(c) Preparation for Guam Proceeding. On behalf of a client in Guam or elsewhere, the out-of-state lawyer may render legal services in Guam in preparation for a potential proceeding to be filed in Guam, provided that the out-of-state lawyer reasonably believes he is eligible for admission pro hac vice in Guam.

(d) Preparation for Out-of-State Proceeding. In connection with a potential proceeding to be filed outside Guam, an out-of-state lawyer may render legal services in Guam for a client or potential client located in Guam, provided that the out-of-state lawyer is admitted or reasonably believes the lawyer is eligible for admission generally or pro hac vice in the jurisdiction where the proceeding is anticipated to be filed.

(e) Services Rendered Outside Guam for Guam Client. An out-of-state lawyer may render legal services while the lawyer is physically outside Guam when requested by a client located in Guam in connection with a potential or pending proceeding filed in or outside Guam.

(f) Alternative Dispute Resolution ("ADR") Procedures. An out-of-state lawyer may render legal services to prepare for and participate in an ADR procedure regardless of where the ADR procedure is expected to take or actually takes place.

(g) No Solicitation. An out-of-state lawyer rendering services in Guam in compliance with this Rule or here for other reasons is not authorized by anything in this rule to hold out to the public or otherwise represent that the lawyer is admitted to practice in this jurisdiction. Nothing in this Rule authorizes out-of-state lawyers to solicit, advertise, or otherwise hold themselves out in publications as available to assist in litigation in Guam.

(h) Temporary Practice. An out-of-state lawyer will only be eligible for admission pro hac vice or to practice in another lawful way only on a temporary basis.

(i) Authorized Services. The foregoing services may be undertaken by the out-of-state lawyer in connection with a potential proceeding in which the lawyer reasonably expects to be admitted pro hac vice, even if ultimately no proceeding is filed or if pro hac vice admission is denied.

## **Rule 9 – Temporary Practice By Foreign Lawyers**

### **Rule 9.01. Certain Temporary Practice Authorized**

A lawyer who is admitted only in a non-United States jurisdiction shall not, except as authorized by this Rule or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law, or hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. Such a lawyer does not engage in the unauthorized practice of law in this jurisdiction when on a temporary basis the lawyer performs services in this jurisdiction that:

(a) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(b) are in or reasonably related to a pending or potential proceeding before a tribunal held or to be held in a jurisdiction outside the United States if the lawyer, or a person the lawyer is assisting, is authorized by law or by order of the tribunal to appear in such proceeding or reasonably expects to be so authorized;

(c) are in or reasonably related to a pending or potential arbitration, mediation or other alternative dispute resolution proceeding held or to be held in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice;

(d) are not within paragraphs (b) or (c) and

(1) are performed for a client who resides or has an office in a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization; or

(2) arise out of or are reasonably related to a matter that has a substantial connection to a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization;

(e) are governed primarily by international law or the law of a non-United States jurisdiction.

### **Rule 9.02. Required Status of Lawyer in Foreign Jurisdiction**

For purposes of this grant of authority, the lawyer must be a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority.