

Idaho Bar Commission Rules

Governing Admission to Practice and Membership in the Idaho State Bar

(Effective July 1, 2005)

RULE 205A. FOREIGN LEGAL CONSULTANTS. A person who is licensed to practice law in a foreign jurisdiction as an attorney or counselor at law or the equivalent thereof, and who complies with the provisions of this Rule for licensing Foreign Legal Consultants, may advise on the law of that foreign jurisdiction in the State of Idaho only to the extent allowed by this Rule. Although a person licensed as a Foreign Legal Consultant under this Rule shall be subject to the provisions of the Idaho Rules of Professional Conduct, the Idaho Bar Commission Rules and other rules adopted by the Idaho Supreme Court, such person shall not be considered an Idaho attorney or be an active member of the Idaho State Bar.

(a) General Regulation as to Licensing

In its discretion, the Idaho Supreme Court may license to practice in this State as a Foreign Legal Consultant, without examination, an applicant who:

- (1) is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;
- (2) for at least five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession and has actually been engaged in the practice of law in the said foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the said foreign country;
- (3) possesses the good moral character and general fitness requisite for a member of the bar of this State; and
- (4) intends to practice as a Foreign Legal Consultant in this State and to maintain an office in this State for that purpose.

(b) Proof Required

An applicant under this Rule shall file with the Idaho State Bar:

- (1) a certificate from the professional body or public authority in such foreign country having final jurisdiction over professional discipline, certifying as to the applicant's admission to practice and the date thereof, and as to his or her good standing as such attorney or counselor at law or the equivalent;
- (2) a letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction of such foreign country;

(3) a duly authenticated English translation of such certificate and such letter if, in either case, it is not in English; and

(4) such other evidence as to the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of section (a) of this Rule as the Idaho Supreme Court may require.

(c) Reciprocal Treatment of Members of the Bar of this State

In considering whether to license an applicant to practice as a Foreign Legal Consultant, the Idaho Supreme Court may in its discretion take into account whether a member of the Idaho State Bar would have a reasonable and practical opportunity to obtain similar licensure for the giving of legal advice to clients in the applicant's country of admission. Any member of the Idaho State Bar who is seeking or has sought to obtain similar licensure in that country may request the Idaho Supreme Court to consider the matter, or the Idaho Supreme Court may do so sua sponte.

(d) Scope of Practice

A person licensed to practice as a Foreign Legal Consultant under this Rule may render legal services in this State only with respect to the law of the foreign country in which such person is admitted to practice law subject, however, to the limitations that he or she shall not:

(1) appear for another person as an attorney in any court, or before any magistrate or other judicial officer, in this State, other than upon admission pro hac vice pursuant to Rule 222;

(2) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

(3) prepare:

(i) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or

(ii) any instrument relating to the administration of a decedent's estate in the United States of America;

(4) prepare any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

(5) render professional legal advice on the law of this State or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise) except on the basis of advice from a person duly qualified and entitled (otherwise than by virtue of having been licensed under this Rule) to render professional legal advice in this State;

(6) be, or in any way hold himself or herself out as, a member of the bar of this State; or

(7) carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:

- (i) his or her own name;
- (ii) the name of the law firm with which he or she is affiliated, in each case only in conjunction with the title “Foreign Legal Consultant” as set forth below;
- (iii) his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country, in each case only in conjunction with the title “Foreign Legal Consultant” as set forth below; and
- (iv) the title “Foreign Legal Consultant,” which may be used in conjunction with the words “admitted to the practice of law in [the name of the foreign country of his or her admission to practice]”.

(e) Rights and Obligations

Subject to the limitations set forth in this Rule, a person licensed as a Foreign Legal Consultant under this Rule shall be considered a lawyer affiliated with the bar of this State and shall be entitled and subject to:

- (1) the rights and obligations set forth in the Idaho Rules of Professional Conduct and/or arising from the other conditions and requirements that apply to a member of the bar of this State under the Idaho Bar Commission Rules and/or other rules adopted by the Idaho Supreme Court; and
- (2) the rights and obligations of a member of the bar of this State with respect to:
 - (i) affiliation in the same law firm with one or more members of the bar of this State, including by:
 - (A) employing one or more members of the bar of this State;
 - (B) being employed by one or more members of the bar of this State or by any partnership, corporation or limited liability company which includes members of the bar of this State or which maintains an office in this State; and
 - (C) being a partner in any partnership, shareholder in any corporation or member in any limited liability company which includes members of the bar of this State or which maintains an office in this State; and
 - (ii) attorney-client privilege, work-product privilege and similar professional privileges.

(f) Disciplinary Provisions

A person licensed to practice as a Foreign Legal Consultant under this Rule shall be subject to professional discipline in the same manner and to the same extent as members of the bar of this State and to this end:

- (1) Every person licensed to practice as a Foreign Legal Consultant under these Rules:
 - (i) shall be subject to discipline by the Idaho Supreme Court consistent with the Idaho Rules of Professional Conduct and the Idaho Bar Commission Rules; and
 - (ii) prior to practicing as a Foreign Legal Consultant shall execute and file with the Idaho State Bar, in such form and manner as the Idaho Supreme Court may prescribe:
 - (A) his or her commitment to observe the Idaho Rules of Professional Conduct and other rules adopted by the Idaho Supreme Court to the extent applicable to the legal services authorized under section (d) of this Rule;
 - (B) an undertaking or appropriate evidence of professional liability insurance, in such amount as the Idaho Supreme Court may prescribe, to assure his or her proper professional conduct and responsibility;
 - (C) a written undertaking to notify the Idaho State Bar and Idaho Supreme Court of any change in such person's good standing as a member of the foreign legal profession referred to in section (a)(1) of this Rule and of any final action of the professional body or public authority referred to in section (b)(1) of this Rule imposing any disciplinary censure, suspension, or other sanction upon such person; and
 - (D) a duly acknowledged instrument, in writing, setting forth his or her physical residence or business address in Idaho and designation of the Clerk of the Idaho Supreme Court as his or her agent upon whom process may be served, with like effect as if served personally upon him or her, in any action or proceeding thereafter brought against him or her and arising out of or based upon any legal services rendered or offered to be rendered by him or her within or to residents of Idaho, whenever after due diligence service cannot be made upon him or her at such address or at such new address in Idaho as he or she shall have filed in the office of such clerk by means of a duly acknowledged supplemental instrument in writing.
- (2) Service of process on the Clerk of the Idaho Supreme Court, pursuant to the designation filed as aforesaid, shall be made by personally delivering to and leaving with such clerk, or with a deputy or assistant authorized by him or her to receive such service, at his or her office, duplicate copies of such process together

with a fee of \$10. Service of process shall be complete when such clerk has been so served. Such clerk shall promptly send one of such copies to the Foreign Legal Consultant to whom the process is directed, by certified mail, return receipt requested, addressed to such Foreign Legal Consultant at the address specified by him or her as aforesaid.

(g) Application and Renewal Fees

An applicant for a license as a Foreign Legal Consultant under this Rule shall pay an application fee, which shall be equal to the fee required to be paid by a person applying for admission as a lawyer applicant of the Idaho State Bar. A person licensed as a Foreign Legal Consultant shall pay annual fees which shall be equal to the fees required to be paid by an active member of the bar of this State for renewal of his or her license to engage in the practice of law in this State. IBCR 304 shall apply to those licensed as Foreign Legal Consultants under this Rule. Failure to comply with the licensing requirements reflected in IBCR 304 will result in immediate cancellation of licensure as a Foreign Legal Consultant.

(h) Revocation of License

In the event that the Idaho Supreme Court determines that a person licensed as a Foreign Legal Consultant under this Rule no longer meets the requirements for licensure set forth in this Rule, or has failed to meet the obligations imposed by this Rule, it shall revoke the license granted to such person hereunder.

(i) Admission to Bar

In the event that a person licensed as a Foreign Legal Consultant under this Rule is subsequently admitted as a member of the bar of this State under the provisions of the Rules governing such admission, the license granted to such person hereunder shall be deemed superseded by the license granted to such person to practice law as a member of the bar of this State.

(j) Application for Waiver of Provisions

The Idaho Supreme Court, upon application, may in its discretion vary the application or waive any provision of this Rule where strict compliance will cause undue hardship to the applicant. Such application shall be in the form of a verified petition setting forth the applicant's name, age and residence address, the facts relied upon and a prayer for relief.