

American Bar Association

Accreditation of Specialty Certification Programs for Lawyers

STANDARDS

SECTION 1: POLICY STATEMENT

- 1.01 This document establishes standards by which the American Bar Association will accredit specialty certification programs for lawyers in particular fields of law. The Standards require that an accredited organization demonstrate that lawyers certified by it possess an enhanced level of skill and expertise as well as substantial involvement in the specialty area of certification, and that accredited organizations foster professional development. The Standards are designed to enable the Association to evaluate thoroughly the objectives, standards and procedures of Applicants and to facilitate public access to appropriate legal services.

SECTION 2: DEFINITIONS

- 2.01 As used in these Standards:

- (A) "Applicant" means a certifying organization which applies to the American Bar Association for accreditation or re-accreditation under these Standards.
- (B) "Association" means the American Bar Association.
- (C) "Certifying Organization" means an organization, bar association, group, or other entity which certifies or intends to certify lawyers as specialists, including the Association or subdivision thereof.
- (D) "Standards" means the American Bar Association Standards For Accreditation Of Specialty Certification Programs For Lawyers.
- (E) "Standing Committee" means the Standing Committee on Specialization of the Association.

SECTION 3: AUTHORITY

- 3.01 The authority to grant and withdraw accreditation and to grant re-accreditation is vested in the Association.
- 3.02 Accreditation under these Standards of any Certifying Organization by the Association is not intended to, and shall not be interpreted to, preempt nor usurp the authority of states to regulate the practice of law, the certification of lawyers as specialists or the approval of organizations which certify lawyers as specialists.

SECTION 4: REQUIREMENTS FOR ACCREDITATION OF CERTIFYING ORGANIZATIONS

In order to obtain accreditation by the Association for a specialty certification program, an Applicant must demonstrate that the program operates in accordance with the following standards:

- 4.01 Purpose of Organization -- The Applicant shall demonstrate that the organization is dedicated to the identification of lawyers who possess an enhanced level of skill and expertise, and to the development and improvement of the professional competence of lawyers.
- 4.02 Organizational Capabilities -- The Applicant shall demonstrate that it possesses the organizational and financial resources to carry out its certification program on a continuing basis, and that key personnel have by experience, education and professional background the ability to direct and carry out such programs in a manner consistent with these Standards.
- 4.03 Decision Makers -- A majority of the body within an Applicant organization reviewing applications for certification of lawyers as specialists in a particular area of law shall consist of lawyers who have substantial involvement in the specialty area.
- 4.04 Uniform Applicability of Certification Requirements and Nondiscrimination
- (A) The Applicant's requirements for certifying lawyers shall not be arbitrary and shall be clearly understood and easily applied. The organization may only certify those lawyers who have demonstrably met each standard. The requirements shall be uniform in all jurisdictions in which the Applicant certifies lawyers, except to the extent state or local law or regulation imposes a higher requirement.
 - (B) Membership in any organization or completion of educational programs offered by any specific organization shall not be required for certification, except that this paragraph shall not apply to requirements relating to the practice of law which are set out in statutes, rules and regulations promulgated by the government of the United States, by the government of any state or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.
 - (C) Applicants shall not discriminate against any lawyers seeking certification on the basis of race, religion, gender, sexual orientation, disability, or age. This paragraph does not prohibit an Applicant from imposing reasonable experience requirements on lawyers seeking certification or re-certification.
- 4.05 Definition and Number of Specialties -- An Applicant shall specifically define the specialty area or areas in which it proposes to certify lawyers as specialists.
- (A) Each specialty area in which certification is offered must be an area in which significant numbers of lawyers regularly practice. Specialty areas shall be named and described in terms which are understandable to the potential users of such legal services, and in terms which will not lead to confusion with other specialty areas.
 - (B) An Applicant may seek accreditation to certify lawyers in more than one specialty area, but in such event, the organization shall be evaluated separately with respect to each specialty program.

- (C) An Applicant shall propose to the Standing Committee a specific definition of each specialty area in which it seeks accreditation to certify lawyers as specialists. The Standing Committee shall approve, modify or reject any proposed definition and shall promptly notify the Applicant of its actions.

4.06 Certification Requirements -- An Applicant shall require for certification of lawyers as specialists, at a minimum, the following:

- (A) Substantial Involvement -- Substantial involvement in the specialty area throughout the three-year period immediately preceding application to the certifying organization. Substantial involvement is measured by the type and number of cases or matters handled and the amount of time spent practicing in the specialty area, and require that the time spent in practicing the specialty be no less than twenty-five percent (25%) of the total practice of a lawyer engaged in a normal full-time practice.

- (B) Peer Review -- A minimum of five references, a majority of which are from attorneys or judges who are knowledgeable regarding the practice area and are familiar with the competence of the lawyer, and none of which are from persons related to or engaged in legal practice with the lawyer.

- (1) Type of References -- The certification requirements shall allow lawyers seeking certification to list persons to whom reference forms could be sent, but shall also provide that the Applicant organization send out all reference forms. In addition, the organization may seek and consider reference forms from persons of the organization's own choosing.

- (2) Content of Reference Forms -- The reference forms shall inquire into the respondent's areas of practice, the respondent's familiarity with both the specialty area and with the lawyer seeking certification, and the length of time that the respondent has been practicing law and has known the applicant. The form shall inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, the lawyer's dealings with judges and opposing counsel.

- (C) Written Examination -- An evaluation of the lawyer's knowledge of the substantive and procedural law in the specialty area, determined by written examination of suitable length and complexity. The examination shall include professional responsibility and ethics as it relates to the particular specialty. On written request from an Applicant, the Standing Committee may allow the Applicant to certify up to twelve lawyers who create and grade the initial version of the examination required under this paragraph without requiring those lawyers to take and pass the examination. Such written request to the Standing Committee shall include the names and addresses of the lawyers, and shall expressly state that they have created and graded, or will grade, the initial version of the examination required under this paragraph, and that they otherwise meet the certification requirements described in ¶¶4.06(A), (B), (D), (E), and (F).

- (D) Educational Experience -- A minimum of 36 hours of participation in continuing legal education in the specialty area in the three-year period preceding the lawyer's application for certification. This requirement may be met through any of the following means:

- (1) Attending programs of continuing legal education or courses offered by Association

accredited law schools in the specialty area;

(2) Teaching courses or seminars in the specialty area;

(3) Participating as panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or

(4) Writing published books or articles concerning the specialty area.

(E) Good Standing -- A lawyer seeking certification is admitted to practice and is a member in good standing in one or more states or territories of the United States or the District of Columbia.

(F) Affirmation of Compliance – A lawyer seeking certification shall affirm in a manner satisfactory to Applicant that the lawyer’s practice in the specialty area is consistent with the lawyer’s status as a certified specialist.

4.07 Impartial Review -- The Applicant shall maintain a formal policy providing lawyers who are denied certification an opportunity for review by an impartial decision maker.

4.08 Requirements for Re-Certification -- The period of certification shall be set by the Applicant, but shall be no longer than five years, after which time lawyers who have been certified must apply for re-certification. Re-certification shall require similar evidence of competence as that required for initial certification in substantial involvement, peer review, educational experience evidence of good standing, and affirmation of compliance.

4.09 Revocation of Certification -- The Applicant shall maintain a procedure for revocation of certification. The procedures shall require a certified lawyer to report his or her disbarment or suspension from the practice of law in any jurisdiction to the certifying organization.

4.10 Senior Specialist Status – The Applicant may establish a certification as “Senior Specialist” consistent with the requirements of Standard 4.05. An Applicant shall require for certification and re-certification of a lawyer as a “Senior Specialist” at a minimum the same requirements of Standards 4.04, 4.06, 4.07, 4.08 and 4.09 herein, except that:

(A) Substantial Involvement – Substantial involvement in the specialty area for “Senior Specialist” shall mean that the lawyer has been certified as a specialist in the specialty area by the Applicant for a total of at least ten years preceding the initial application for “Senior Specialist.” Applicant shall establish minimum standards in the specialty area that qualify the lawyer for status as a “Senior Specialist” and lawyer shall affirm in a manner satisfactory to Applicant that the lawyer’s practice in the specialty area is consistent with the Applicant’s “Senior Specialist” status.

(B) Written Examination – No additional written examination for “Senior Specialist” shall be required for initial certification or recertification.

(C) Notice of Senior Specialist Status – Applicant shall establish a title that includes the words “Senior Specialist,” and shall require that a lawyer certified as a “Senior Specialist” display the designated “Senior Specialist” title in all places where the lawyer previously displayed the

designation as a certified specialist.

SECTION 5: ACCREDITATION PERIOD AND RE-ACCREDITATION

- 5.01 Initial accreditation by the Association of any Applicant shall be granted for five years.
- 5.02 To retain Association accreditation, a certifying organization shall be required to apply for re-accreditation prior to the end of the fifth year of its initial accreditation period and every five years thereafter. The organization shall be granted re-accreditation upon a showing of continued compliance with these Standards.

SECTION 6: REVOCATION OF ACCREDITATION

- 6.01 A certifying organization's accreditation by the Association may be revoked upon a determination that the organization has ceased to exist, or has ceased to operate its certification program in compliance with these Standards.

SECTION 7: AUTHORITY TO IMPLEMENT STANDARDS

- 7.01 Consistent with these Standards, the Standing Committee shall have the authority to:
- (A) Interpret these Standards;
 - (B) Adopt rules and procedures for implementing these Standards, and amend such rules and procedures as necessary;
 - (C) Adopt an appropriate fee schedule to administer these Standards;
 - (D) Consider applications by any certifying organization for accreditation or re-accreditation under these Standards, evaluate those requests in accordance with the Standards and recommend approval by the Association of such requests when it deems the organization has met the requirements as set forth in these Standards; and
 - (E) Recommend the revocation of accreditation in accordance with the provisions of Section 6.01 of these Standards.

SECTION 8: ADOPTION AND AMENDMENT

- 8.01 These Standards become effective upon their adoption by the House of Delegates of the Association.
- 8.02 The power to approve an amendment to these Standards is vested in the House of Delegates; however, the House will not act on any amendment until it has first received and considered the advice and recommendations of the Standing Committee.

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