

## STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on October 21, 2024, the following order was made and entered:

**RE: REQUEST FOR PUBLIC COMMENT ON AMENDMENTS TO RULE 10  
OF THE WEST VIRGINIA RULES FOR ADMISSION TO THE PRACTICE  
OF LAW, No. 24-564**

On October 16, 2024, the Court considered proposed amendments to Rule 10 of the West Virginia Rules for Admission to the Practice of Law. The Court has jurisdiction of court rules under Article VIII, §§ 1 and 3 of the West Virginia Constitution.

Upon consideration and review, the Court is of the opinion that the following amendments to Rule 10 of the West Virginia Rules for Admission to the Practice of Law should be published for a period of public comment for 30 days. Comments may be filed in writing with the office of the clerk on or before November 20, 2024. Additions are indicated by underscoring, and deletions are indicated by strike-through.

### **Rules for Admission to the Practice of Law**

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#### **Rule 10.0. Rule relative to legal assistance by law students to persons unable to pay for legal services**

(a) General purpose. — The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for such services, and to encourage law schools and supervising attorneys to provide clinical instruction in trial work of varying kinds, the following rule is adopted.

(b) Scope of rule. — An eligible law student may appear, with a supervising attorney, in any court or before any administrative tribunal in this State on behalf of the State of West Virginia or any indigent person if, except as provided for in section (c) below, the person on whose behalf the student is appearing has indicated in writing his or her consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:

(1) Civil matters. — In civil actions or cases, the supervising lawyer shall be required to be personally present.

(2) Criminal and other matters. — In all criminal and related matters, the supervising lawyer must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted. This provision shall apply to all matters in which the minimum due process requirements approximate the requirements of criminal cases. When a student represents the State, the supervising lawyer shall be the prosecuting attorney or his or her designated assistant prosecuting attorney.

(3) Abuse and neglect matters – In abuse and neglect cases on behalf of a non-offending parent or unknown father, the supervising lawyer shall be required to be personally present.

(c) Filing of written consent. — In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. If a law student represents an unknown father in an abuse and neglect case, the presiding judge may enter an order granting permission for the appearance unless and until the unknown father appears in the case and objects to continued representation by a law student.

#### **Rule 10.1. Requirements and limitations.**

In order to make an appearance pursuant to this rule, the law student must:

(a) Be enrolled in a law school approved by the American Bar Association, or its equivalent, or have graduated from such school within the last six months, provided the student complies with Rule 10.2(a).

(b) Have completed legal studies amounting to at least four (4) semesters or the equivalent if the school is on some basis other than a semester basis.

(c) Demonstrate that he or she is in good academic standing or was in such standing at the time of graduation, has not been convicted of a crime involving moral turpitude or a felony, and has not been subjected to honor code discipline by the law school.

(d) Be introduced to the court in which the student is appearing by the supervising lawyer who shall be admitted to practice by the West Virginia Supreme Court of Appeals.

(e) Neither ask for nor receive any compensation or remuneration of any kind for his or her services from the person on whose behalf the services are rendered, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the State from paying compensation to the eligible law student, nor shall it prohibit the West Virginia University College of Law's clinical law program from billing Public Defender Services for eligible work consistent with West Virginia Code.

(f) Certify in writing that he or she has read and is familiar with, and will be governed in the conduct of his or her activities under this rule by the Code of Professional Responsibility adopted by this Court.

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A True Copy

Attest: /s/ C. Casey Forbes  
Clerk of Court

