

# SUPREME COURT OF WISCONSIN

## NOTICE

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No. 20-04

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**In the Matter of the Petition to Repeal  
and Recreate Supreme Court Rule (SCR)  
Chapter 50, Regarding the Practical  
Training of Law Students (Student  
Practice Petition)**

**FILED**

**MAR 2, 2021**

Sheila T. Reiff  
Clerk of Supreme Court  
Madison, WI

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On July 28, 2020, Attorney Daniel J. Hoff, President, Wisconsin Access to Justice Commission (WATJC), filed a rule petition asking the court to repeal and recreate Supreme Court Rule (SCR) Chapter 50 relating to the practical training of law students.

The court discussed the rule petition on September 30, 2020 in a closed administrative rule conference. The court voted to solicit written comments and schedule a public hearing. Letters were sent to interested persons on November 3, 2020. A number of comments were received, all supporting the petition. The court conducted a public hearing on January 14, 2021, via videoconference. Attorney Daniel J. Hoff presented the petition to the court on behalf of WATJC. Dean Dan Tokaji, University of Wisconsin Law School, spoke in support of the petition; as did Attorney Mitch, Clinical Professor, Director, Economic Justice Institute and Neighborhood Law Clinic, University of Wisconsin Law School; and Sarah Davis, JD, MPA, Clinical Professor, Co-Director,

Center for Patient Partnerships, University of Wisconsin Law School. The court was also advised that Dean Joseph D. Kearney, Marquette University Law School, has no objection to the petition.

At the public hearing, the court inquired about proposed SCR 50.02(5), which permits a supervising lawyer to summarily withdraw a student's practice certification. The court inquired whether this authority could be misused or have adverse consequences for a student. The petitioner has explained that withdrawal of a student-practice certification, while rare, can occur for a variety of reasons, including family, health, or educational reasons of the student or of the supervising attorney, or for other reasons that have no bearing on a student's character and fitness for admission to the bar. Accordingly, in the absence of other information, withdrawal of a student-practice certification should not reflect adversely on a student.

Concerns about possible misuse of this authority by supervising attorneys are mitigated by the fact that student practitioners receive mentoring from, and have opportunities to provide feedback to, their law schools regarding supervising attorneys, and supervising lawyers must abide by the Rules of Professional Conduct for Attorneys, SCR ch. 20. Conduct in violation of those rules could subject a supervising attorney to professional discipline.

At the public hearing the court also noted that the existing rule contains a provision, SCR 50.08, entitled "compensation" but the proposed rule has no similar provision. The petitioner explains that it omitted the compensation provision from the proposed rule because it was potentially confusing. Some student practitioners may receive compensation for their work and assisting clients may properly include

counseling clients about legal fees the organization may charge the client for its services.

The court discussed the petition at a closed administrative conference and voted to grant the petition with certain modifications. Therefore,

IT IS ORDERED that, effective July 1, 2021, Supreme Court Rule Chapter 50 is repealed and recreated to read:

**SCR 50.01 Qualifications to practice as a student.**

In order to engage in the activities permitted under SCR 50.04, a law student:

(1) Shall either:

(a) be regularly enrolled in law school approved by the American Bar Association, in good standing, and have completed the first-year curriculum for a full time student, as certified under SCR 50.02; or

(b) have graduated from a law school approved by the American Bar Association, as certified under SCR 50.02, not more than 12 months before engaging in the activities permitted by these rules and shall not be admitted to practice before any federal or state court;

(2) Shall work under the supervision of a lawyer, as provided in SCR 50.03, under the auspices of:

(a) a clinical education program operated or sponsored by a Wisconsin law school, including externships, practicums, supervised field placements and experience-based programs operated or sponsored by a Wisconsin law school;

(b) a qualified pro bono program, as defined in SCR 31.01(12);

(c) a nonprofit legal services organization that receives funding from the Wisconsin Trust Account Foundation or the Legal Services Corporation; or

(d) a government agency which employs the supervising lawyer; and

(3) If providing legal services to a client under SCR 50.04, shall obtain the informed consent of the client, as specified in SCR 20:1.0(f).

**SCR 50.02 Law school certification.**

(1) A student engaged in activities permitted by SCR 50.04 shall obtain a written certification from the law school in which the student is enrolled, or the law school from which the student graduated, on a form prescribed by the clerk of supreme court.

(2) The student shall obtain the applicable certification form from the clerk of supreme court, present the certification form to the law school for its consideration, obtain a completed form from the law school and carry the form at all times when appearing in court. The law school shall send a copy of the certification form to the clerk of the supreme court.

(3) The law school shall certify, as applicable, whether the student:

(a) is regularly enrolled, is in good standing, and has completed the first-year curriculum for full time students; or

(b) has graduated, and the certification shall specify the date of graduation.

(4) The certification shall be valid until:

(a) for students who have not yet graduated, the expiration of 24 months after it is issued or until the student has been admitted to

practice before any federal or state court, whichever is earlier. For part-time students and students regularly enrolled and pursuing one or more additional degrees, the certification may be renewed at the discretion of the law school; or

(b) for students who have graduated but have not yet been admitted to practice before any federal or state court, the expiration of 12 months after the date of graduation.

(5) The certification shall be withdrawn by the student's law school if the student ceases to be regularly enrolled in law school without graduating. The law school shall send notice to the supervising attorney and the clerk of the supreme court. The certification may be withdrawn if the supervising attorney notifies the clerk of the supreme court that supervision of the student will cease. The clerk shall send notice to the student and the student's law school. The student's law school may, upon notice to the clerk, issue a modified certification reflecting the substitution of a new supervising attorney.

(6) The certification may be canceled by the supreme court at any time, without hearing and without any showing of cause.

**SCR 50.03 Supervision.**

A supervising lawyer shall:

(1) Be an active member of the State Bar of Wisconsin within the meaning of SCR 10.03.

(2) Assume personal professional responsibility for any services performed or undertaken by the student while under the lawyer's supervision.

(3) Read, approve and personally sign any pleadings or other papers prepared by the student prior to the filing thereof with a court, tribunal or public agency.

(4) Read and approve any documents which are prepared by the student for signing by any other person.

(5) Appear with the student in any proceeding before a court, tribunal or public agency unless:

(a) the lawyer's presence is not necessary; and

(b) if the student is appearing on behalf of a client, the client gives informed consent, as specified in SCR 20:1.0(f); and

(c) the judge, panel of judges or presiding officer does not object to the student appearing without the supervising lawyer present.

(6) Supervise no more than the following numbers of students concurrently:

(a) ten, if the lawyer spends on average more than 20 hours per week supervising the clinical education of students;

(b) five, if the lawyer spends on average 20 hours or fewer per week supervising the clinical education of students;

(c) five, if the lawyer supervises students under the auspices of a qualified pro bono program, a nonprofit legal services organization that receives funding from the Wisconsin Trust Account Foundation, or as a lawyer employed by a governmental agency.

**SCR 50.04 Activities authorized.**

A student may engage, under the supervision of a supervising lawyer in accordance with SCR 50.03, in the following activities:

(1) Appear on behalf of a client or a governmental agency in any proceeding before a court, tribunal or public agency; except that before

appearing before the supreme court or court of appeals, the supervising lawyer and the student must request permission by motion filed under Wis. Stat. § (Rule) 809.14.

(2) Negotiate on behalf of a client or a governmental agency with another person or entity.

(3) Counsel and give legal advice to a client or governmental agency.

**SCR 50.05 Students engaged as law clerks.** This chapter does not require certification in accordance with SCR 50.02 or supervision in accordance with SCR 50.03 of a law student performing acts on behalf of a lawyer or law firm that are customarily performed by law clerks in law offices, as long as the acts do not consist of activities specified in SCR 50.04, except that a lawyer or law firm employing a law clerk must assume professional responsibility for any acts performed by the student as a law clerk while in the employment of the lawyer or law firm.

IT IS FURTHER ORDERED that notice of the above amendments be given by a single publication of a copy of this order in the official publications designated in SCR 80.01, including the official publishers' online databases, and on the Wisconsin court system's website. The State Bar of Wisconsin shall provide notice of this order.

Dated at Madison, Wisconsin, this 2nd day of March, 2021.

BY THE COURT:

Sheila T. Reiff  
Clerk of Supreme Court

