

1 **This document reflects the changes approved by the court affecting**
2 **SCR ch. 10. It remains subject to the court's further consideration of the**
3 **remaining rule petitions and to review and technical correction. When the**
4 **technical review is complete and the court has approved the final draft, an**
5 **order will issue with an anticipated effective date of January 1, 2021.**
6

7 **SCR 10.03 Membership.**

8 (1) Persons included in membership. As of the effective date of this rule,
9 membership of the state bar consists of all those persons who on that date are
10 licensed to practice law in this state. After the effective date of this rule, the
11 membership includes all persons who become licensed to practice law in this state;
12 subject in each case to compliance with the conditions and requirements of
13 membership. Residence in this state is not a condition of eligibility to membership
14 in the state bar.

15 (2) Enrollment. Every person who becomes licensed to practice law in this
16 state shall enroll in the state bar by registering his or her name and social security
17 number with the association within 10 days after admission to practice. Every
18 change after enrollment in any member's office address or social security number
19 shall be reported promptly to the state bar. The social security number of a person
20 enrolling in the state bar may not be disclosed to any person or entity except the
21 supreme court and its agencies, or as otherwise provided by supreme court rules.

22 (3) Classes of membership. (a) The members of the state bar are divided
23 into 4 classes: active members, judicial members, inactive members and emeritus
24 members. The class of active members includes all members of the state bar except
25 the judicial members and inactive members. The class of inactive members includes
26 those persons who are eligible for active membership but are not engaged in the
27 practice of law in this state and have filed with the secretary of the association
28 written notice requesting enrollment in the class of inactive members. The class of
29 judicial members includes the following persons: supreme court justices, court of
30 appeals judges, circuit court judges, full-time circuit court commissioners, full-time
31 municipal court judges, supreme court commissioners, court of appeals staff
32 attorneys, federal district court judges, federal appellate court judges, federal
33 bankruptcy judges, federal magistrate judges, federal administrative law judges,
34 and retired justices and judges who are eligible for temporary judicial assignment
35 and are not engaged in the practice of law. Any judicial member may elect to
36 become an active member with all rights of active membership except to hold office
37 as an officer or governor or to practice law. The class of emeritus members includes
38 those persons who are either active or inactive members in good standing but who
39 are at least 70 years of age and have filed with the executive director of the
40 association a written notice requesting enrollment in the class of emeritus members.
41 An emeritus member has all the privileges of membership in the state bar and need
42 not pay membership dues for the years following the year in which he or she attains
43 the age of 70.

44 (b) 1. Any inactive member in good standing who has actively practiced law
45 in this state during the last 10 years may change his or her classification to that of

1 an active member by filing with the secretary a written request for transfer to the
2 class of active members and by paying the dues required of active members.

3 2. a. Any inactive member in good standing who has not actively practiced
4 law in this state during the last 10 years may change his or her classification to that
5 of an active member by filing with the secretary a written request for transfer to the
6 class of active members, paying the dues required of active members, and obtaining
7 supreme court approval as provided in subd. 2. b.

8 b. Any inactive member described in subd. 2. a. seeking to change his or
9 her classification to that of an active member shall file a copy of his or her request
10 for transfer to active membership with both the board of bar examiners and the
11 office of lawyer regulation. The member shall pay \$200 each to the board of bar
12 examiners and the office of lawyer regulation, which payment shall accompany the
13 copy of the request. Within 90 days after receipt of the copy of the request, the
14 board of bar examiners shall make a determination regarding compliance with
15 continuing legal education requirements and file its finding with the clerk of the
16 supreme court. Within 90 days after receipt of the copy of the request, the director
17 of the office of lawyer regulation shall investigate the eligibility of the requestor
18 and file a response with the clerk of the supreme court in support of or in opposition
19 to the request. Following receipt of the determination of the board of bar examiners
20 and the response of the office of lawyer regulation, the supreme court shall consider
21 and approve or disapprove the inactive member's request for transfer to active
22 membership.

23 (bf) Any judicial member who is no longer serving in a judicial office may
24 change his or her classification to that of an active member by filing with the
25 secretary a written request for transfer to the class of active members and paying
26 the dues required of active members.

27 (bm) Any inactive member in good standing may change his or her
28 classification to that of an emeritus member if otherwise qualified to become an
29 emeritus member provided that no inactive member who has not actively practiced
30 law in this state or in another state during the last two years may be transferred to
31 emeritus status until the board of bar examiners certifies that the member has
32 completed the continuing legal education requirements required for transfer to
33 active status and the transfer is approved by the supreme court.

34 (c) No judicial or inactive member may practice law in this state or hold
35 office or vote in any election conducted by the state bar. No person engaged in the
36 practice of law in this state in his or her own behalf or as an assistant or employee
37 of an active member of the state bar, or occupying a position, the duties of which
38 require the giving of legal advice or service in this state, may be enrolled as an
39 inactive member.

40 (4) (a) No individual other than an enrolled active member of the state bar
41 may practice law in this state or in any manner purported to be authorized or
42 qualified to practice law.

43 (b) A court or judge in this state may allow a nonresident counsel to appear
44 and participate in a particular action or proceeding in association with an active
45 member of the state bar of Wisconsin who appears and participates in the action or
46 proceeding. An order granting nonresident counsel permission to appear and

1 participate in an action or proceeding shall continue through subsequent appellate
2 or circuit court actions or proceedings in the same matter, provided that nonresident
3 counsel files a notice of the order granting permission with the court handling the
4 subsequent appellate or circuit court action or proceeding.

5 1. Counsel who seek to provide legal services under SCR 10.03 (4)(b) shall
6 provide the information listed in Appendix A to this rule. The applicant may also
7 include additional information supporting the request for admission pro hac vice.

8 2. Counsel who seek to provide legal services under SCR 10.03(4)(b) shall
9 pay a nonrefundable fee of two-hundred and fifty dollars (\$250) for each
10 application for admission pro hac vice. The fee shall be waived if the application
11 certifies that the attorney is employed by an agency providing legal services to
12 indigent clients and will be appearing on behalf of an indigent client, or that the
13 applicant will otherwise be appearing on behalf of an indigent client in the
14 proceeding and will be charging no fee for the appearance.

15
16 WISCONSIN COMMENT

17 The Wisconsin Supreme Court has directed that the fee established in SCR
18 10.03 (4)(b)2 is to be paid as follows: \$50 to the Office of Lawyer Regulation and
19 \$200 to the State Bar of Wisconsin. See S. Ct. Order 13-11, 2014 WI 42 (issued
20 Jun. 20, 2014, eff. Jul. 1, 2014) (Abrahamson, C.J. and Bradley, J., dissenting); See
21 S. Ct. Order 13-11A, 2015 WI 23 (March 6, 2015); S. Ct. Order 13-11B, 2019 WI
22 52 (issued May 16, 2019, eff. Jul 1, 2019).

23
24 (c) A court in this state may allow a nonresident military counsel to appear
25 and participate in a particular action or proceeding representing military personnel
26 without being in association with an active member of the state bar of Wisconsin
27 and without being subject to any application fees required by this rule.

28 (d) If representing a party before an agency of this state is limited to lawyers,
29 an administrative law judge or hearing examiner for a state agency may, using the
30 same standards and procedures as a court, allow a nonresident counsel who has
31 been retained to appear in a particular agency proceeding to appear and participate
32 in that proceeding without being in association with an active member of the state
33 bar of Wisconsin.

34 (cm) A court in this state may allow a nonresident attorney who seeks to
35 appear for the limited purpose of participating in a child custody proceeding
36 pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. s. 1901, et seq., while
37 representing a tribe, without being in association with an active member of the state
38 bar of Wisconsin and without being subject to any application fees required by this
39 rule. (d) If representing a party before an agency of this state is limited to lawyers,
40 an administrative law judge or hearing examiner for a state agency may, using the
41 same standards and procedures as a court, allow a nonresident counsel who has
42 been retained to appear in a particular agency proceeding to appear and participate
43 in that proceeding without being in association with an active member of the state
44 bar of Wisconsin.

45 (e) A court or judge may, after hearing, rescind permission for a nonresident
46 counsel to appear before it if the lawyer by his or her conduct manifests

1 incompetency to represent a client in a Wisconsin court or unwillingness to abide
2 by the rules of professional conduct for attorneys or the rules of decorum of the
3 court.

4 (f) Counsel not admitted to the practice of law in this jurisdiction but
5 admitted in any other U.S. jurisdiction or foreign jurisdiction, who is employed as
6 a lawyer in Wisconsin on a continuing basis and employed exclusively by a
7 corporation, association, or other nongovernmental entity, the business of which is
8 lawful and consists of activities other than the practice of law or the provision of
9 legal services, shall register as in-house counsel within 60 days after the
10 commencement of employment as a lawyer or if currently so employed then within
11 90 days of the effective date of this rule, by submitting to the Board of Bar
12 Examiners the following:

- 13 1. A completed application in the form set forth in Appendix B to this rule;
- 14 2. A nonrefundable fee of two hundred and fifty dollars (\$250) to the Board
15 of Bar Examiners;
- 16 3. Documents proving admission to practice law in the primary jurisdiction
17 in which counsel is admitted to practice law; and
- 18 4. An affidavit from an officer, director, or general counsel of the employing
19 entity attesting to the lawyer's employment by the entity and the capacity in which
20 the lawyer is so employed. A lawyer registered under this subsection may provide
21 pro bono legal services without fee or expectation of fee as provided in SCR 20:6.1.
22

23 WISCONSIN COMMENT

24 A registered in-house lawyer is authorized to provide legal services to the
25 entity, client, or its organizational affiliates, including entities that control, are
26 controlled by, or are under the common control with the employer, and for
27 employees, officers, and directors of such entities, but only on matters directly
28 related to their work for the entity and only to the extent consistent with SCR 20:1.7.
29 Counsel who provide legal services in this jurisdiction under SCR 20:5.5(d)(1) that
30 desire to appear, either in person, by signing pleadings, or by being designated as
31 counsel in actions filed in courts, administrative agencies, or other tribunals in this
32 state, must file a separate motion for pro hac vice admission.
33

34 WISCONSIN COMMENT

35 SCR 60.01(8) defines "judge" as "a justice of the supreme court, a judge of
36 the court of appeals, a judge of the circuit court, a reserve judge, a municipal judge,
37 a court commissioner, and anyone, whether or not a lawyer, who is an officer of the
38 judicial system and who performs judicial functions."
39

40 (5) Membership dues and reduction of dues for certain activities. (a) The
41 annual membership dues for state bar operations for an active member shall be
42 established as provided herein. Other classes of members shall pay the fraction of
43 the dues of an active member as follows: Supreme Court Justices, the full amount;
44 inactive member, one-half; judicial members, two-thirds; and members admitted to
45 practice for 3 years or less, one-half. For purposes of determining an active
46 member's dues status based on the number of years admitted, there shall be no

1 proration based on the exact month and year of admission. A fiscal year for which
2 any dues are required to be paid under Bylaw 1, Section 2 shall count as a full year
3 and a fiscal year for which no dues payment is required shall not count as a year. A
4 change in the dues of an active member for state bar operations may be made by
5 the board of governors or as set forth herein. The state bar shall include in the dues
6 statement each year the amount necessary to pay the costs of the Lawyer Regulation
7 System and of the continuing legal education functions of the Board of Bar
8 Examiners as approved by the Supreme Court. Judicial members other than
9 Supreme Court Justices are not liable to pay the portion for the costs of these boards,
10 as reflected in the dues statement. The state bar shall also include in the dues
11 statement each year an assessment to support the public interest legal services fund,
12 as approved by the supreme court. The state bar shall show separately on its annual
13 dues statement the portion of the total dues for state bar operations, the assessments
14 for each of the boards, and other assessments imposed by the supreme court.

15 (b)1. The State Bar may engage in and fund any activity that is reasonably
16 intended for the purposes of the association set forth in SCR 10.02(2). The State
17 Bar may not use the compulsory dues of any member who objects pursuant to SCR
18 10.03(5)(b)3. for activities that are not necessarily or reasonably related to the
19 purposes of regulating the legal profession or improving the quality of legal
20 services. Expenditures that are not necessarily or reasonably related to the purposes
21 of regulating the legal profession or improving the quality of legal services may be
22 funded only with user fees or other sources of revenue.

23 2. Prior to the beginning of each fiscal year, the state bar shall publish
24 written notice of the activities that can be supported by compulsory dues and the
25 activities that cannot be supported by compulsory dues. The notice shall indicate
26 the cost of each activity, including all appropriate indirect expense, and the amount
27 of dues to be devoted to each activity. The notice shall set forth each member's pro
28 rata portion, according to class of membership, of the dues to be devoted to
29 activities that cannot be supported by compulsory dues. The notice shall be sent to
30 every member of the state bar together with the annual dues statement. A member
31 of the state bar may withhold the pro rata portion of dues budgeted for activities
32 that cannot be supported by compulsory dues.

33 3. A member of the state bar who contends that the state bar incorrectly set
34 the amount of dues that can be withheld may deliver to the state bar a written
35 demand for arbitration. Any such demand shall be delivered within 30 days of
36 receipt of the member's dues statement.

37 4. If one or more timely demands for arbitration are delivered, the state bar
38 shall promptly submit the matter to arbitration before an impartial arbitrator. All
39 such demands for arbitration shall be consolidated for hearing. No later than 7
40 calendar days before the hearing, any member requesting arbitration shall file with
41 the arbitrator a statement specifying with reasonable particularity each activity he
42 or she believes should not be supported by compulsory dues under this paragraph
43 and the reasons for the objection. The costs of the arbitration shall be paid by the
44 state bar.

45 5. In the event the decision of the arbitrator results in an increased pro rata
46 reduction of dues for members who have delivered timely demands for arbitration

1 for a fiscal year, the state bar shall offer such increased pro rata reduction to
2 members first admitted to the state bar during that fiscal year and after the date of
3 the arbitrator's decision.

4 (6) Penalty for nonpayment of dues. If the annual dues or assessments of
5 any member remain unpaid 120 days after the payment is due, the membership of
6 the member may be suspended in the manner provided in the bylaws; and no person
7 whose membership is so suspended for nonpayment of dues or assessments may
8 practice law during the period of the suspension.

9 (6m) Petition for reinstatement from suspension for nonpayment of dues or
10 failure to file a trust account certificate.

11 (a) An attorney whose suspension for nonpayment of annual membership
12 dues for state bar operations or assessments imposed by the supreme court has been
13 for a period of less than 3 consecutive years shall be reinstated as a member by the
14 state bar board of governors if he or she makes full payment of the amount owing
15 and an additional payment of \$20 as a penalty. The secretary of the state bar shall
16 certify the reinstatement to the clerk of the supreme court.

17 (b) An attorney whose suspension for nonpayment of annual membership
18 dues for state bar operations or assessments imposed by the supreme court has been
19 for a period of 3 or more consecutive years may file a petition for reinstatement
20 with the supreme court. A copy of the petition shall be served on the board of bar
21 examiners and the office of lawyer regulation. Separate payments in the amount of
22 \$200 each shall be made to the board of bar examiners and the office of lawyer
23 regulation and shall accompany the petition. Within 90 days after service of the
24 petition for reinstatement, the board shall make a determination regarding
25 compliance and file its finding with the supreme court. Within 90 days after service
26 of the petition for reinstatement, the director of the office of lawyer regulation shall
27 investigate the eligibility of the petitioner for reinstatement and file a response with
28 the supreme court in support of or in opposition to the petition.

29
30 **WISCONSIN COMMENT**

31 **Costs regarding the petition for reinstatement under subsection (6m)(b) may**
32 **be assessed against the petitioner, as provided in SCR 22.24.¹**

33
34 (c) An attorney suspended from the practice of law for failure to comply
35 with the trust account certification requirement under SCR 20:1.15 (g) shall be
36 reinstated as a member by the state bar board of governors if he or she files the
37 prescribed certificate. The secretary of the state bar shall certify the reinstatement
38 to the clerk of the supreme court.

39 (7) (a) Voluntary resignation of membership. If a member of the state bar
40 files with the executive director a written notice of the member's surrender of his
41 or her license to practice law and the acceptance by the supreme court of his or her
42 resignation in the state bar, the person shall then cease to be a member of the state
43 bar and his or her name shall be removed from the membership register. Before
44 accepting a resignation, the supreme court shall request from the office of lawyer

¹ Adopted 9/16/19 (Petition 19-06).

1 regulation information concerning whether the attorney is the subject of any
2 pending grievances, investigations, or proceedings.

3 (b) 1. An attorney who has resigned as a member of the state bar may be
4 readmitted to the state bar with approval of the supreme court as provided in subd.
5 2.

6 2. The attorney shall file an original petition for readmission to the state bar
7 with the clerk of the supreme court and shall file copies of the petition with the
8 board of bar examiners and the office of lawyer regulation. The member shall pay
9 \$200 each to the board of bar examiners and the office of lawyer regulation which
10 payment shall accompany the copy of the petition. Within 90 days after receipt of
11 the copy of the petition for readmission, the board of bar examiners shall make a
12 determination regarding the eligibility of the petitioner for readmission and file its
13 finding with the clerk of the supreme court. Within 90 days after receipt of the copy
14 of the petition for readmission, the director of the office of lawyer regulation shall
15 investigate the eligibility of the petitioner for readmission and file a response with
16 the clerk of the supreme court in support of or in opposition to the petition.
17 Following receipt of the determination by the board of bar examiners and the
18 response of the office of lawyer regulation, the supreme court shall consider and
19 approve or disapprove the petition for readmission.
20

21 WISCONSIN COMMENT

22 Information regarding continuing legal education requirements is set forth
23 in SCR ch. 31. See also CLE 3.015. The standards the OLR uses to investigate a
24 requestor's eligibility for reinstatement are described in *In re Reinstatement of Polk*,
25 2007 WI 51, ¶10, 300 Wis. 2d 280, 732 N.W.2d 419 (explaining that "investigation
26 of eligibility for reinstatement . . . is akin to the review conducted by the BBE
27 during an initial application for a license to practice law in this state" such that the
28 applicant must demonstrate that he or she has good moral character and the fitness
29 to practice law). See also SCR 40.06(1) and (3) and Rule BA 6.01-6.02.
30

31 WISCONSIN COMMENT

32 Costs regarding the petition for readmission under subsection (7)(b) may be
33 assessed against the petitioner, as provided in SCR 22.24.²
34

35 (8) Avoidance of hardship. The board of governors may, in any case in
36 which to do otherwise would result in hardship or injustice, permit the retroactive
37 enrollment of members and waive penalties prescribed for delinquency in the
38 payment of membership dues.

² Adopted 9/16/19 (Petition 19-06)