

1           In 2016, the Wisconsin Supreme Court established a committee to  
2 review the Office of Lawyer Regulation (OLR), entitled the OLR Procedure  
3 Review Committee. The Honorable Gerald Ptacek was appointed as the  
4 Committee's chair.

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6           The Committee examined OLR procedures holistically and  
7 established its mission to review OLR procedures and structure, and to  
8 report to the Wisconsin Supreme Court recommendations that would  
9 increase the efficiency, effectiveness, and fairness of the OLR process. On  
10 March 13, 2019, the OLR Procedure Review Committee filed nine  
11 administrative rule petitions.

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13           On June 26, 2019, following a June 6, 2019 public hearing and  
14 administrative rules conference, the court issued an order granting Rule  
15 Petition 19-04 (Referee Training). The court opted to hold Rule Petition  
16 19-05 (Referee Authority) in abeyance until further order of the court.

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18           On September 16, 2019, at an administrative rules conference  
19 following a public hearing, the Wisconsin Supreme Court approved, in part,  
20 Petition 19-06 (Reinstatements) and Petition 19-07 (OLR Confidentiality).

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22           This document reflects the changes approved by the court to date  
23 affecting SCR ch. 10. It remains subject to the court's further consideration  
24 of the remaining rule petitions and to review and technical correction. When  
25 the technical review is complete and the court has approved the final draft,  
26 an order will issue with an anticipated effective date of July 1, 2020.

### 27 28           **SCR 10.03 Membership.**

29           (1) Persons included in membership. As of the effective date of this rule,  
30 membership of the state bar consists of all those persons who on that date are  
31 licensed to practice law in this state. After the effective date of this rule, the  
32 membership includes all persons who become licensed to practice law in this  
33 state; subject in each case to compliance with the conditions and requirements of  
34 membership. Residence in this state is not a condition of eligibility to membership  
35 in the state bar.

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

43           (3) Classes of membership. (a) The members of the state bar are divided  
44 into 4 classes: active members, judicial members, inactive members and emeritus  
45 members. The class of active members includes all members of the state bar  
46 except the judicial members and inactive members. The class of inactive members

1 includes those persons who are eligible for active membership but are not  
2 engaged in the practice of law in this state and have filed with the secretary of the  
3 association written notice requesting enrollment in the class of inactive members.  
4 The class of judicial members includes the following persons: supreme court  
5 justices, court of appeals judges, circuit court judges, full-time circuit court  
6 commissioners, full-time municipal court judges, supreme court commissioners,  
7 court of appeals staff attorneys, federal district court judges, federal appellate  
8 court judges, federal bankruptcy judges, federal magistrate judges, federal  
9 administrative law judges, and retired justices and judges who are eligible for  
10 temporary judicial assignment and are not engaged in the practice of law. Any  
11 judicial member may elect to become an active member with all rights of active  
12 membership except to hold office as an officer or governor or to practice law. The  
13 class of emeritus members includes those persons who are either active or inactive  
14 members in good standing but who are at least 70 years of age and have filed with  
15 the executive director of the association a written notice requesting enrollment in  
16 the class of emeritus members. An emeritus member has all the privileges of  
17 membership in the state bar and need not pay membership dues for the years  
18 following the year in which he or she attains the age of 70.

19 (b) 1. Any inactive member in good standing who has actively practiced  
20 law in this state during the last 10 years may change his or her classification to  
21 that of an active member by filing with the secretary a written request for transfer  
22 to the class of active members and by paying the dues required of active  
23 members.

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

29 b. Any inactive member described in subd. 2. a. seeking to change his or  
30 her classification to that of an active member shall file a copy of his or her request  
31 for transfer to active membership with both the board of bar examiners and the  
32 office of lawyer regulation. The member shall pay \$200 each to the board of bar  
33 examiners and the office of lawyer regulation, which payment shall accompany  
34 the copy of the request. Within 90 days after receipt of the copy of the request, the  
35 board of bar examiners shall make a determination regarding compliance with  
36 continuing legal education requirements and file its finding with the clerk of the  
37 supreme court. Within 90 days after receipt of the copy of the request, the director  
38 of the office of lawyer regulation shall investigate the eligibility of the requestor  
39 and file a response with the clerk of the supreme court in support of or in  
40 opposition to the request. Following receipt of the determination of the board of  
41 bar examiners and the response of the office of lawyer regulation, the supreme  
42 court shall consider and approve or disapprove the inactive member's request for  
43 transfer to active membership.

44 (bf) Any judicial member who is no longer serving in a judicial office may  
45 change his or her classification to that of an active member by filing with the

1 secretary a written request for transfer to the class of active members and paying  
2 the dues required of active members.

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

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

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

19 (b) A court or judge in this state may allow a nonresident counsel to  
20 appear and participate in a particular action or proceeding in association with an  
21 active member of the state bar of Wisconsin who appears and participates in the  
22 action or proceeding. An order granting nonresident counsel permission to appear  
23 and participate in an action or proceeding shall continue through subsequent  
24 appellate or circuit court actions or proceedings in the same matter, provided that  
25 nonresident counsel files a notice of the order granting permission with the court  
26 handling the subsequent appellate or circuit court action or proceeding.

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

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

38  
39 **WISCONSIN COMMENT**

40 The Wisconsin Supreme Court has directed that the fee established in SCR  
41 10.03 (4)(b)2 is to be paid as follows: \$50 to the Office of Lawyer Regulation and  
42 \$200 to the State Bar of Wisconsin. See S. Ct. Order 13-11, 2014 WI 42 (issued  
43 Jun. 20, 2014, eff. Jul. 1, 2014) (Abrahamson, C.J. and Bradley, J., dissenting);  
44 See S. Ct. Order 13-11A, 2015 WI 23 (March 6, 2015); S. Ct. Order 13-11B, 2019  
45 WI 52 (issued May 16, 2019, eff. Jul 1, 2019).

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

5 (cm) A court in this state may allow a nonresident attorney who seeks to  
6 appear for the limited purpose of participating in a child custody proceeding  
7 pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. s. 1901, et seq.,  
8 while representing a tribe, without being in association with an active member of  
9 the state bar of Wisconsin and without being subject to any application fees  
10 required by this rule.

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

17 (e) A court or judge may, after hearing, rescind permission for a  
18 nonresident counsel to appear before it if the lawyer by his or her conduct  
19 manifests incompetency to represent a client in a Wisconsin court or  
20 unwillingness to abide by the rules of professional conduct for attorneys or the  
21 rules of decorum of the court.

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

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

42  
43 **WISCONSIN COMMENT**

44 A registered in-house lawyer is authorized to provide legal services to the  
45 entity, client, or its organizational affiliates, including entities that control, are  
46 controlled by, or are under the common control with the employer, and for

1 employees, officers, and directors of such entities, but only on matters directly  
2 related to their work for the entity and only to the extent consistent with SCR  
3 20:1.7. Counsel who provide legal services in this jurisdiction under SCR  
4 20:5.5(d)(1) that desire to appear, either in person, by signing pleadings, or by  
5 being designated as counsel in actions filed in courts, administrative agencies, or  
6 other tribunals in this state, must file a separate motion for pro hac vice  
7 admission.

8  
9 WISCONSIN COMMENT

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

14  
15 (5) Membership dues and reduction of dues for certain activities. (a) The  
16 annual membership dues for state bar operations for an active member shall be  
17 established as provided herein. Other classes of members shall pay the fraction of  
18 the dues of an active member as follows: Supreme Court Justices, the full amount;  
19 inactive member, one-half; judicial members, two-thirds; and members admitted  
20 to practice for 3 years or less, one-half. For purposes of determining an active  
21 member's dues status based on the number of years admitted, there shall be no  
22 proration based on the exact month and year of admission. A fiscal year for which  
23 any dues are required to be paid under Bylaw 1, Section 2 shall count as a full  
24 year and a fiscal year for which no dues payment is required shall not count as a  
25 year. A change in the dues of an active member for state bar operations may be  
26 made by the board of governors or as set forth herein. The state bar shall include  
27 in the dues statement each year the amount necessary to pay the costs of the  
28 Lawyer Regulation System and of the continuing legal education functions of the  
29 Board of Bar Examiners as approved by the Supreme Court. Judicial members  
30 other than Supreme Court Justices are not liable to pay the portion for the costs of  
31 these boards, as reflected in the dues statement. The state bar shall also include in  
32 the dues statement each year an assessment to support the public interest legal  
33 services fund, as approved by the supreme court. The state bar shall show  
34 separately on its annual dues statement the portion of the total dues for state bar  
35 operations, the assessments for each of the boards, and other assessments imposed  
36 by the supreme court.

37 (b)1. The State Bar may engage in and fund any activity that is reasonably  
38 intended for the purposes of the association set forth in SCR 10.02(2). The State  
39 Bar may not use the compulsory dues of any member who objects pursuant to  
40 SCR 10.03(5)(b)3. for activities that are not necessarily or reasonably related to  
41 the purposes of regulating the legal profession or improving the quality of legal  
42 services. Expenditures that are not necessarily or reasonably related to the  
43 purposes of regulating the legal profession or improving the quality of legal  
44 services may be funded only with user fees or other sources of revenue.

45 2. Prior to the beginning of each fiscal year, the state bar shall publish  
46 written notice of the activities that can be supported by compulsory dues and the

1 activities that cannot be supported by compulsory dues. The notice shall indicate  
2 the cost of each activity, including all appropriate indirect expense, and the  
3 amount of dues to be devoted to each activity. The notice shall set forth each  
4 member's pro rata portion, according to class of membership, of the dues to be  
5 devoted to activities that cannot be supported by compulsory dues. The notice  
6 shall be sent to every member of the state bar together with the annual dues  
7 statement. A member of the state bar may withhold the pro rata portion of dues  
8 budgeted for activities that cannot be supported by compulsory dues.

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

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

21 5. In the event the decision of the arbitrator results in an increased pro rata  
22 reduction of dues for members who have delivered timely demands for arbitration  
23 for a fiscal year, the state bar shall offer such increased pro rata reduction to  
24 members first admitted to the state bar during that fiscal year and after the date of  
25 the arbitrator's decision.

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

31 (6m) Petition for reinstatement from suspension for nonpayment of dues  
32 or failure to file a trust account certificate.

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

39 (b) An attorney whose suspension for nonpayment of annual membership  
40 dues for state bar operations or assessments imposed by the supreme court has  
41 been for a period of 3 or more consecutive years may file a petition for  
42 reinstatement with the supreme court. A copy of the petition shall be served on  
43 the board of bar examiners and the office of lawyer regulation. Separate payments  
44 in the amount of \$200 each shall be made to the board of bar examiners and the  
45 office of lawyer regulation and shall accompany the petition. Within 90 days after  
46 service of the petition for reinstatement, the board shall make a determination

1 regarding compliance and file its finding with the supreme court. Within 90 days  
2 after service of the petition for reinstatement, the director of the office of lawyer  
3 regulation shall investigate the eligibility of the petitioner for reinstatement and  
4 file a response with the supreme court in support of or in opposition to the  
5 petition.

6  
7 **COMMENT**

8 **Costs regarding the petition for reinstatement under subsection (6m)(b)**  
9 **may be assessed against the petitioner, as provided in SCR 22.24.<sup>1</sup>**

10  
11 (c) An attorney suspended from the practice of law for failure to comply  
12 with the trust account certification requirement under SCR 20:1.15 (g) shall be  
13 reinstated as a member by the state bar board of governors if he or she files the  
14 prescribed certificate. The secretary of the state bar shall certify the reinstatement  
15 to the clerk of the supreme court.

16 (7) (a) Voluntary resignation of membership. If a member of the state bar  
17 files with the executive director a written notice of the member's surrender of his  
18 or her license to practice law and the acceptance by the supreme court of his or  
19 her resignation in the state bar, the person shall then cease to be a member of the  
20 state bar and his or her name shall be removed from the membership register.  
21 Before accepting a resignation, the supreme court shall request from the office of  
22 lawyer regulation information concerning whether the attorney is the subject of  
23 any pending grievances, investigations, or proceedings.

24 (b) 1. An attorney who has resigned as a member of the state bar may be  
25 readmitted to the state bar with approval of the supreme court as provided in subd.  
26 2.

27 2. The attorney shall file an original petition for readmission to the state  
28 bar with the clerk of the supreme court and shall file copies of the petition with  
29 the board of bar examiners and the office of lawyer regulation. The member shall  
30 pay \$200 each to the board of bar examiners and the office of lawyer regulation  
31 which payment shall accompany the copy of the petition. Within 90 days after  
32 receipt of the copy of the petition for readmission, the board of bar examiners  
33 shall make a determination regarding the eligibility of the petitioner for  
34 readmission and file its finding with the clerk of the supreme court. Within 90  
35 days after receipt of the copy of the petition for readmission, the director of the  
36 office of lawyer regulation shall investigate the eligibility of the petitioner for  
37 readmission and file a response with the clerk of the supreme court in support of  
38 or in opposition to the petition. Following receipt of the determination by the  
39 board of bar examiners and the response of the office of lawyer regulation, the  
40 supreme court shall consider and approve or disapprove the petition for  
41 readmission.

42  
43 **WISCONSIN COMMENT**

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<sup>1</sup> Adopted 9/16/19 (Petition 19-06).

1 Information regarding continuing legal education requirements is set forth  
2 in SCR ch. 31. See also CLE 3.015. The standards the OLR uses to investigate a  
3 requestor's eligibility for reinstatement are described in *In re Reinstatement of*  
4 *Polk*, 2007 WI 51, ¶10, 300 Wis. 2d 280, 732 N.W.2d 419 (explaining that  
5 "investigation of eligibility for reinstatement . . . is akin to the review conducted  
6 by the BBE during an initial application for a license to practice law in this state"  
7 such that the applicant must demonstrate that he or she has good moral character  
8 and the fitness to practice law). See also SCR 40.06(1) and (3) and Rule BA 6.01-  
9 6.02.

10  
11 **COMMENT**

12 Costs regarding the petition for readmission under subsection (7)(b) may  
13 be assessed against the petitioner, as provided in SCR 22.24.<sup>2</sup>  
14

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

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<sup>2</sup> Adopted 9/16/19 (Petition 19-06)