

PROPOSED

**STATE OF VERMONT
VERMONT SUPREME COURT
TERM, 2022**

**Order Promulgating Amendments to Rules 8(b)(2), 9(b), 11, 12(a), 13(d), 17, and 18(c) of
the Vermont Rules of Admission to the Bar of the Vermont Supreme Court**

Pursuant to Chapter II, § 30, of the Vermont Constitution, it is hereby ordered:

1. That Rule 8(b)(2) of the Vermont Rules of Admission to the Bar be amended to read as follows (new matter underlined; deleted matter struck through):

Rule 8. Graduate of a non-Approved Law School

(b) **Outside of the United States.** An Applicant who has graduated from a foreign, non-Approved Law School (“Foreign Law School”) must establish he or she has:

- (1) completed a legal education at a Foreign Law School whose curriculum provided training in a system based on the common law of England and that is otherwise equivalent to graduation from an Approved Law School, as determined by the equivalency determination process; and
- (2) been admitted to the bar of a court of general jurisdiction in the country in which the Applicant attended the Foreign Law School and has maintained good standing in that bar or resigned from that bar while still in good standing. The Board may waive this requirement for upon the Applicant’s showing of good cause. For the purposes of this rule, “good cause” includes, but is not limited to, consideration of the reason(s) the applicant is not admitted to the foreign bar, admission and practice in another U.S. or foreign jurisdiction, and legal employment and/or legal study.

Board’s Notes—2022 Amendment

Rule 8(b)(2) is amended to clarify what factors the Board of Bar Examiners considers when determining whether to waive the requirement of admission to the foreign jurisdiction.

2. That Rule 9(b) of the Vermont Rules of Admission to the Bar be amended to read as follows (new matter underlined; deleted matter struck through):

Rule 9. Admission by Examination

(b) Examination Requirements and Passing Score.

- (1) *Within Five Years.* An Applicant must sit for the UBE within five years of graduating

from law school or completing the LOS Program, ~~unless the time is extended for good cause~~. The Board may waive this requirement upon the Applicant's showing of good cause. For the purposes of this rule, "good cause" means, a demonstration that the Applicant's legal education is not stale, considering such factors as legal employment or legal study. This requirement does not apply to an Applicant already currently licensed to practice law in another U.S. jurisdiction.

(2) *Sitting for Entire Examination.* An Applicant must sit for all parts of the UBE at a single administration of the Exam.

(3) *Passing Score.* To pass the UBE for admission to the Vermont Bar, an Applicant must attain a score of 270 or higher.

(4) *Limitation on Continued Sittings.* An Applicant who has failed the bar examination four times will not be permitted to sit for the UBE in Vermont. For purposes of this rule, attempts to achieve a passing score on the UBE count toward the limit of four regardless of where the Applicant sat for the UBE. The four-attempt limitation may be waived upon a strong showing, to the Board's satisfaction, that the Applicant has substantially improved his or her Exam preparation and there is good cause warranting the requested waiver.

Board's Notes—2022 Amendment

In conjunction with a similar amendment to Rule 13(d), Rule 9(b)(1) is amended to clarify what factors the Board of Bar Examiners considers when determining whether to waive the requirement that the bar exam be taken within five years of graduating from law school or completing the LOS Program.

The wording in Rule 9(b)(3) regarding the passing UBE score is also corrected to specify that an Applicant must receive a score of 270 or higher.

3. That Rule 11 of the Vermont Rules of Admission to the Bar be amended to read as follows (new matter underlined):

Rule 11. Multistate Professional Responsibility Examination

An Applicant for admission by examination must achieve a scaled score of 80 or higher on the MPRE within a period beginning three years before achieving a Uniform Bar Examination score that meets Vermont's passing score requirement and concluding one year after written notification to the Applicant of achieving such a score, unless time is extended for good cause. The Applicant is responsible for ensuring that the Board receives an official report from the NCBE certifying the Applicant's score and the MPRE administration date at which the score was achieved.

Board's Notes—2022 Amendment

The wording in Rule 11 regarding the MPRE passing score is corrected to clarify that an Applicant must receive a score of 80 or higher.

4. That Rule 12(a) of the Vermont Rules of Admission to the Bar be amended to read as follows (new matter underlined; deleted matter struck through):

Rule 12. Additional CLE and Experiential Requirements for Applicants Qualifying for Admission by Examination

(a) **Requirements.** An Applicant who qualifies for admission by examination must satisfy the following requirements.

(1) *Continuing Legal Education (CLE).* The Applicant must attend at least 15 hours of CLE on Vermont practice and procedure in courses approved by the Board of Mandatory Continuing Legal Education and certified by the Board of Bar Examiners as satisfying the requirements of this rule. A minimum of 9 of the 15 CLE hours must be earned by attendance at programs delivered either as Moderated Programming or Non-Moderated Programming with Interactivity as a Key Component, as those terms are defined in the Vermont Rules for Mandatory Continuing Legal Education. All CLE courses that satisfy this requirement must be completed no earlier than 1 year before, and no later than 1 year after, the Applicant is admitted to the Vermont Bar. For good cause, the Board may extend the time necessary to satisfy this CLE requirement.

(2) *Mentorship.* Once the Applicant is admitted to the Vermont Bar, the The Applicant must complete a mentorship under the supervision of a judge or attorney practicing in Vermont. The supervising judge or attorney must be admitted to the Vermont Bar for at least 3 years when the mentorship begins. The mentorship must last at least 6 months and all requirements. For applicants for admission by examination, the mentorship can commence no earlier than the date applicants receive notice of having passed the bar exam. For applicants for admission by transferred UBE score, the mentorship can commence no earlier than the date applicants receive notice that they are eligible for admission. The mentorship must be completed within one year of the Applicant's admission to the Vermont Bar. For good cause, the Board may extend the time necessary to satisfy this mentorship requirement. To complete the mentorship, the Applicant must:

(A) meet regularly with the supervising judge or attorney, no less than 10 times, to discuss the Applicant's practice and issues relevant to Vermont practice and procedure; and

(B) engage in at least 40 hours of activities on the mentorship program list compiled by the Board of Mandatory Continuing Legal Education and certified by the Board of Bar Examiners as satisfying the requirements of this Rule.

Board's Notes—2022 Amendment

Rule 12(a)(2) is amended to allow applicants to commence their mentorship prior to admission to the bar, consistent with the clerkship that was required prior to the adoption of the UBE.

Also, references in the Rule to the “the Board of Continuing Legal Education” are changed to “the Board of Mandatory Continuing Legal Education” to accurately reflect the name of the Board.

5. That Rule 13(d) of the Vermont Rules of Admission to the Bar be amended to read as follows (new matter underlined; deleted matter struck through):

Rule 13. Admission by Transferred Uniform Bar Examination Score

(d) **Timing of UBE.** The required score must have been achieved at an administration of the UBE no later than 5 years after the Applicant completed the educational requirements set forth in Rule 6, ~~unless time is extended for good cause. The Board may waive this requirement upon the Applicant's showing of good cause. For purposes of this rule, “good cause” means a demonstration that the Applicant's legal education is not stale, considering such factors as legal employment or legal study.~~

Board's Notes—2021 Amendment

In conjunction with a similar amendment to Rule 9(b)(1), Rule 13(d) is amended to clarify what factors the Board of Bar Examiners considers when determining whether to waive the requirement that the bar exam must be taken within five years of graduating from law school or completing the LOS Program.

6. That Rule 17 of the Vermont Rules of Admission to the Bar be amended to read as follows (new matter underlined; deleted matter struck through):

Rule 17. Hearing Process

A hearing convened pursuant to Rule 16(e)(~~2~~ 3)(B) will be conducted as follows:

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Board's Notes—2022 Amendment

The opening sentence of the rule is amended to correct the cross reference to Rule 16.

7. That Rule 18(c) of the Vermont Rules of Admission to the Bar be amended to read as follows (new matter underlined; deleted matter struck through):

Rule 18. Panel's Decision After Hearing

(c) **Right to Appeal; Supreme Court's Review.** The Applicant has the right to appeal the decision to the Supreme Court. The Applicant's notice of appeal must be filed within 30 days of the date of the decision ~~was mailed~~. Within 30 days of the date the decision is filed, the Court may also order review of the decision on its own motion. If the Applicant does not file a timely notice of appeal and the Court does not order review on its own motion, the panel decision will be final.

Board's Notes—2022 Amendment

Rule 18(c) is amended to require an applicant to file a notice of appeal within 30 days of the date of a decision rather than 30 days of date the decision was mailed. This reflects the practice of notifying applicants (via electronic means) of the panel's decision on the same day as the issuance of the decision.

8. That these rules as amended are prescribed and promulgated effective _____, 2022. The Board's Notes are advisory.

9. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont this _____ day of _____, 2022.

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Vacancy, Associate Justice