

**Proposed Amendments to
Local Rules of Civil Procedure
Rule 83.2: Bar Admissions, Membership and Dues
Rule 83.13: Conviction of Crime
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10/01/2014**

83.2 Bar Admission, Membership and Dues [Effective]

- (a) **Application.** An applicant for admission to the bar of this court must be licensed by the highest court of a state, federal territory, or the District of Columbia, be on active status in a state, federal territory, or the District of Columbia, and be a member of the bar in good standing in all courts and jurisdictions where the applicant has been admitted. Each applicant must complete the application form available from the Clerk, be approved by the Clerk, pay the admission fee to the Clerk, and take the prescribed oath. A fee schedule is available at the Clerk's Office. The admission fee is deposited into the Treasury of the United States as mandated by the Judicial Conference of the United States.
- (b) **Consent to Jurisdiction; Certification of Familiarity with Local Rules.** An attorney who applies for admission to the bar of this court:
- (1) consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct;
 - (2) certifies familiarity with the local rules of this court; and
 - (3) certifies familiarity with the Rules of Professional Conduct adopted by the Supreme Court of New Mexico and adopted by this court in D.N.M.LR-Civ. 83.9.
- (c) **Member in Good Standing.** An attorney admitted to the bar of this court must remain in good standing in all courts where admitted. In good standing means not suspended or disbarred by any court for any reason. An attorney whose suspension or disbarment has been stayed by order of the disciplining court prior to the effective date of the suspension or disbarment remains in good standing. An attorney who is not in good standing may not practice before the bar of this court or continue to be an attorney of record in any pending case. On notice to this court of lack of good standing from the suspending or disbarring jurisdiction, the clerk of this court shall make a notation in the court record of such lack of good standing.
- (d) **Relief From Rule of Good Standing.**
- (1) **Applications.** An attorney who seeks relief from the rule of good standing in subdivision (c) must file a request for relief.
 - (2) **Standards.** It is presumed that discipline imposed by another court against a member of the bar of this court is appropriate. To obtain relief, the attorney so disciplined has the burden to establish by clear and convincing evidence:
 - (A) that the procedure resulting in discipline by the court was so lacking in notice or opportunity to be heard as to deny due process,
 - (B) that the application of the good standing rules in subdivision (c) would result in grave injustice, or
 - (C) that the kind of misconduct warrants substantially less severe discipline.

- (3) **Reinstatement by Original Disciplining Court.** An attorney who has been reinstated or readmitted by the original disciplining court, but who remains suspended or disbarred in a different court for the same conduct as that at issue in the original disciplining court, may apply for reinstatement or readmission pursuant to D.N.M.LR-Civ. 83.10(b) and is not disqualified by the requirement that an attorney be in good standing in all courts where admitted.
- (e) **Resignation.** An attorney may resign from the bar of this court only if the attorney is in good standing, is not counsel of record in a pending case, and is not the subject of any disciplinary proceeding before this court.
- (f) **When Self-Reporting is Required.** An attorney who has been admitted to the bar of this court must notify the clerk of the court in the following circumstances:
- (1) **Eligibility.** The attorney must remain a licensed member in active status and in good standing of the bar of at least one state, federal territory, or the District of Columbia. If at any time these eligibility criteria are not met, the attorney must, within 14 days after the attorney receives notice of the change in status, notify the clerk of this court of the change in status and the reason for the change.
 - (2) **Suspension or Disbarment by Another Court.** If the attorney is suspended or disbarred for any reason by any court, the attorney must, within 14 days of the date the disciplinary order enters, give written notice to the clerk of this court of the terms of discipline, the name and address of the court imposing the discipline, and the effective date of the disciplinary action. An order of suspension or disbarment that is stayed or appealed must be reported.
 - (3) **Resignation Pending Investigation of Misconduct.** If the attorney resigns from the bar of any other federal or state court while an investigation into allegations of misconduct is pending, the attorney must, within 14 days of the resignation, give to the clerk of this court written notice of the resignation and the fact that an investigation was pending.
 - (4) **Pending Charges.** If the attorney is charged in any court with a crime as defined in D.N.M.LR-Civ. 83.13, the attorney must, within 14 days after the attorney receives notice that the charge has been filed, notify the clerk of this court in writing of the charge.
 - (5) **Conviction.** If the attorney is convicted of a crime as defined in D.N.M.LR-Civ. 83.13, the attorney must, within 14 days of the conviction, provide the clerk of this court written notice of the conviction, including the terms of the conviction, the court entering the conviction, and the date of conviction. In addition, the attorney must, within 14 days of the conviction becoming final with no further right of direct appeal, notify the clerk of this court that the conviction has become final. The definition of conviction in D.N.M.LR-Civ. 83.13(b) applies to this paragraph.
- (g) **Effect of Failure To Self-Report.** Failure to self-report is a separate cause for disciplinary action. However, a failure to self-report an administrative suspension for failure to pay an annual registration fee or to comply with mandatory continuing legal education requirements does not constitute separate cause for further disciplinary action by this court.

- (h) **Bar Dues.** Following admission, a member of the Federal Bar must pay dues to the Clerk on or before January 31 in every odd numbered year.
- (i) **Failure to Pay Dues.** An attorney who fails to pay dues on time will be put on delinquent status and will not be allowed to practice in this District. The attorney will be reinstated upon payment of the delinquent dues.
- (j) **Temporary Waiver of Membership.** An eligible attorney who has applied for membership, but has not yet been admitted, may seek leave of the Court to represent a party in a specific action.

[Rules 83.3 – 83.12 remain unchanged]

83.13 Conviction of Crime [Effective]

- (a) **Crime.** As used in these rules, a crime for which discipline may be imposed is any felony, i.e., a crime punishable by a term of imprisonment of more than one year; any lesser crime that reflects adversely on the honesty, trustworthiness or fitness of the attorney in other respects; or any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation to commit a crime.
- (b) **Conviction.** As used in these rules, a conviction includes a verdict of guilty, a plea of guilty, or a plea of nolo contendere, regardless of whether entry of judgment of conviction or imposition of sentence is suspended or deferred by the court.
- (c) **Duty of the Clerk.** After receiving notice of a conviction of a member of the bar of this court for a crime as defined in subdivision (a), the clerk must immediately notify the Chief Judge and the attorney.
- (d) **Interim Suspension.**
 - (1) **General Procedure.** The Chief Judge may place an attorney on interim suspension immediately on proof of a conviction of the attorney for a crime as defined in subdivision (a), regardless of the pendency of any appeal. Alternatively, the Chief Judge may refer the attorney to a panel of judges for investigation and recommendation pursuant to D.N.M.LR-Civ.83.10(a).
 - (2) **Opportunity to Object.** The attorney may submit in writing any objection that establishes that the suspension may not properly be ordered, such as proof that the crime did not constitute a crime as defined in subdivision (a) or that the attorney is not the individual convicted.
 - (3) **Termination.** On a written showing by the attorney of extraordinary circumstances, the Chief Judge may vacate an order of suspension.
 - (4) **Effect of Reversal or Vacatur of Conviction.** With the exception of a guilty plea resulting in a deferred judgment or sentence, if an attorney suspended under this rule demonstrates that the underlying conviction has been reversed or vacated, the order of interim suspension shall be vacated and the attorney reinstated. The vacatur of the interim suspension does not automatically terminate any disciplinary proceeding then pending against the attorney.

- (e) **Formal Charges.** When the conviction for a crime as defined in subdivision (a) is the result of a guilty verdict, on conclusion of direct appeal, the Clerk of the Court must submit formal charges to the Chief Judge. The Chief Judge will appoint a panel of judges pursuant to D.N.M.LR-Civ. 83.10(a) to determine the nature and extent of the discipline to be imposed.
- (f) **Other Grounds for Discipline.** Notwithstanding the disposition of criminal charges, the panel of judges may consider the underlying facts to determine if disciplinary proceedings are warranted.