

CHAPTER 11. RULES GOVERNING THE LAW SCHOOL PRACTICE PROGRAM

11-1. GENERALLY RULE 11-1.1 PURPOSE

The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for such services and to encourage law schools to provide clinical instruction in trial work of varying kinds, the following rules are adopted.

RULE 11-1.2 ACTIVITIES

(a) Definition. A law school practice program is a credit-bearing clinical program coordinated by a law school in which students directly provide representation to clients in litigation under the supervision of a lawyer.

(b) Appearance in Court or Administrative Proceedings. An eligible law student may appear in any court or before any administrative tribunal in this state on behalf of any indigent person if the person on whose behalf the student is appearing has indicated in writing consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance. In those cases in which the indigent person has a right to appointed counsel, the supervising attorney shall be personally present at all critical stages of the proceeding. In all cases, the supervising attorney shall be personally present when required by the court or administrative tribunal who shall determine the extent of the eligible law student's participation in the proceeding.

(c) Appearance for the State in Criminal Proceedings. An eligible law student may also appear in any criminal matter on behalf of the state with the written approval of the state attorney or the attorney general and of the supervising lawyer. In such cases the supervising attorney shall be personally present when required by the court who shall determine the extent of the law student's participation in the proceeding.

(d) Appearance on Behalf of Governmental Officers or Entities. An eligible law student may also appear in any court or before any administrative tribunal in any civil matter on behalf of the state, state officers, or state agencies or on behalf of a municipality or county, provided that the municipality or county has a full-time legal staff, with the written approval of the attorney representing the state, state officer, state agency, municipality, or county. The attorney representing the state, state officer, state agency, municipality, or county shall supervise the law student and shall be personally present when required by the court or administrative tribunal, which shall determine the extent of the law student's participation in the proceeding.

(e) Filing of Consent and Approval. In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. If the client is the state attorney, state officer, or governmental entity, it shall be sufficient to file the written consent and approval with the clerk and each presiding judge once for the term of the student's participation.

(f) Fixing of Standards of Indigence. The board of governors shall fix the standards by which indigence is determined under this chapter upon the recommendation of the largest voluntary bar association located in the circuit in which a program is implemented hereunder.

RULE 11-1.3 REQUIREMENTS AND LIMITATIONS

In order to make an appearance pursuant to this chapter, the law student must:

(a) have registered with the Florida Board of Bar Examiners as a certified legal intern registrant; have paid the \$75 fee for such registration if the registration is completed within the first 250 days of the registrant's law school education or \$150 if the registration is filed after the 250-day deadline; and have received a letter of clearance as to character and fitness from the Florida Board of Bar Examiners; any fee paid under this subdivision shall be deducted from the applicable application fee should the certified legal intern registrant subsequently decide to apply for admission to The Florida Bar;

(b) be duly enrolled in the United States in, and appearing as part of a law school practice program of, a law school approved by the American Bar Association;

(c) have completed legal studies amounting to at least 4 semesters or 6 quarters for which the student has received not less than 48 semester hours or 72 quarter hours of academic credit or the equivalent if the school is on some other basis;

(d) be certified by the dean of the student's law school as being of good character and competent legal ability and as being adequately trained to perform as a legal intern in a law school practice program;

(e) be introduced to the court in which the student is appearing by an attorney admitted to practice in that court;

(f) neither ask for nor receive any compensation or remuneration of any kind for the student's services from the person on whose behalf the student renders services, but this shall not prevent a state attorney, public defender, legal aid organization, or state officer or governmental entity from paying compensation to the eligible law student (nor shall it prevent any of the foregoing from making such charge for its services as it may otherwise require); and

(g) certify in writing that the student has read and is familiar with the Rules of Professional Conduct as adopted by this court and will abide by the provisions thereof.

RULE 11-1.4 CERTIFICATION OF STUDENT

The certification of a student by the law school dean:

(a) Shall be filed with the clerk of this court, and, unless it is sooner withdrawn, it shall remain in effect until the expiration of 18 months after it is filed.

(b) May be withdrawn by the dean at any time by mailing a notice to that effect to the clerk of this court. It is not necessary that the notice state the cause for withdrawal.

(c) May be terminated by this court at any time without notice or hearing and without any showing of cause. Notice of the termination may be filed with the clerk of the court.

RULE 11-1.5 APPROVAL OF LEGAL AID ORGANIZATION

Legal aid organizations that provide a majority of their legal services to the indigent and use law student interns pursuant to this chapter must be approved by the supreme court. A legal aid organization seeking approval shall file a petition with the clerk of the court certifying that it is a nonprofit organization and reciting with specificity:

- (a) the structure of the organization and whether it accepts funds from its clients;
- (b) the major sources of funds used by the organization;
- (c) the criteria used to determine potential clients' eligibility for legal services performed by the organization;
- (d) the types of legal and nonlegal services performed by the organization; and
- (e) the names of all members of The Florida Bar who are employed by the organization or who regularly perform legal work for the organization.

Legal aid organizations approved on the effective date of this chapter need not reapply for approval, but all such organizations are under a continuing duty to notify the court promptly of any significant modification to their structure or sources of funds.

RULE 11-1.6 OTHER ACTIVITIES

(a) Preparation of Documents; Assistance of Indigents. In addition, an eligible law student may engage in other activities, under the general supervision of a member of the bar of this court, but outside the personal presence of that lawyer, including:

- (1) preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer;
- (2) preparation of briefs, abstracts, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising lawyer;
- (3) except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this court, assistance to indigent inmates or correctional institutions or other persons who request such assistance in preparing applications for and supporting documents for postconviction relief. If there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the court on behalf of such a client must be signed by the attorney of record.

(b) Identification of Student in Documents and Pleadings. Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If the student participated in drafting only a portion of it, that fact may be mentioned.

(c) Participation in Oral Argument. An eligible law student may participate in oral argument in appellate courts but only in the presence of the supervising lawyer.

RULE 11-1.7 SUPERVISION

The member of the bar under whose supervision an eligible law student does any of the things permitted by this chapter shall:

(a) be a lawyer whose service as a supervising lawyer for this program is approved by the dean of the law school in which the law student is enrolled and who is a member of The Florida Bar in good standing;

(b) be a lawyer employed by a state attorney, public defender, an approved legal aid organization, a state officer, or a governmental entity enumerated in rule 11-1.2(d).

(c) assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work; and

(d) assist the student in the student's preparation to the extent the supervising lawyer considers it necessary.

RULE 11-1.8 MISCELLANEOUS

Nothing contained in this chapter shall affect the right of any person who is not admitted to the practice of law to do anything that the person might lawfully do prior to the adoption of this chapter.

RULE 11-1.9 CONTINUATION OF PRACTICE PROGRAM AFTER COMPLETION OF LAW SCHOOL PROGRAM OR GRADUATION

(a) Certification. A law student at an American Bar Association approved Florida law school who has filed an application for admission to The Florida Bar, has received an initial clearance letter as to character and fitness from the Florida Board of Bar Examiners, has completed a law school practice program awarding a minimum of 3 semester credit hours or the equivalent or requiring at least 200 hours of actual participation in the program, and has had certification withdrawn by the law school dean by reason of successful completion of the program or has graduated from law school following successful completion of the program may make appearances for any of the same supervisory authorities under the same circumstances and restrictions that were applicable to students in law school programs pursuant to this chapter if the supervising attorney:

(1) files a certification in the same manner and subject to the same limitations as that required to be filed by the law school dean and files a separate certificate of the dean stating that the law student has successfully completed the law school practice program. This certification may be withdrawn in the same manner as provided for the law school dean's withdrawal of certification. The maximum term of certification for graduates shall be 12 months from graduation; and

(2) further certifies that the attorney will assume the duties and responsibilities of the supervising attorney as provided by other provisions of this chapter.

(b) Graduates of Non-Florida Law Schools. A graduate of an American Bar Association approved non-Florida law school may qualify for continuation if the graduate has made application for admission to The Florida Bar and received a letter of initial clearance as to character and fitness from the Florida Board of Bar Examiners, and has successfully completed a clinical program in law school that met the definition of a law school practice program under rule 11-1.2(a) and that awarded a minimum of 3 semester hours or the equivalent or required at least 200 hours of actual participation in the program.

(c) Termination of Certification. Failure of a post-graduate certified legal intern to do any of the following shall result in the automatic termination of certification:

- (1) failure to take the next available Florida bar examination;
- (2) failure to take the second available Florida bar examination, if unsuccessful on the first administration;
- (3) failure to pass every portion of the Florida bar examination by at least the second administration, if unsuccessful on the first administration; or
- (4) denial of admission to The Florida Bar.

RULE 11-1.10 CERTIFICATION OF MEMBERS OF OUT-OF-STATE BARS

(a) Persons Authorized to Appear. A member of an out-of-state bar may practice law in Florida pursuant to this chapter if:

- (1) the appearance is made as an employee of the attorney general, a state attorney, a public defender, or the capital collateral representative; and
- (2) the member of an out-of-state bar has made application for admission to The Florida Bar; and
- (3) the member of an out-of-state bar submits to the jurisdiction of the Supreme Court of Florida for disciplinary purposes; and
- (4) the member of an out-of-state bar is in good standing with that bar and is not currently the subject of disciplinary proceedings.

(b) Term of Certification. The maximum term of certification under this section shall be 12 months from the date of certification; provided, however, that the certification may extend beyond 12 months if the certificate holder has passed the Florida bar examination and is awaiting the results of the character and fitness evaluation of the Florida Board of Bar Examiners. Certification may be withdrawn in the same manner as provided for the withdrawal of certification by a law school dean.

(c) Termination of Certification. Failure to take the next available Florida bar examination, failure of any portion of the Florida bar examination, or denial of admission to The Florida Bar shall terminate certification hereunder.