

27 NCAC 01D .2510 STANDARDS FOR CERTIFICATION AS A SPECIALIST IN FEDERAL CRIMINAL LAW

Each applicant for certification as a specialist in the subspecialty of federal criminal law shall meet the minimum standards set forth in Rule .1720 of this subchapter. In addition, each applicant shall meet the following standards for certification:

(a) Licensure and Practice - An applicant shall be licensed and in good standing to practice law in North Carolina as of the date of the application. During the period of certification an applicant shall continue to be licensed and in good standing to practice law in North Carolina.

(b) Substantial Involvement - An applicant shall affirm to the board that the applicant has experience through substantial involvement in the practice of criminal law in the federal courts of the United States.

(1) Substantial involvement shall mean during the five years immediately preceding the application, the applicant devoted an average of at least 600 hours a year to the practice of criminal law, but not less than 400 hours in any one year. "Practice" shall mean substantive legal work, specifically including the handling of matters in federal district court criminal cases, the pre-charge representation of clients in matters being investigated by federal law enforcement agencies, in federal criminal appeals, or otherwise providing legal advice or representation regarding such matters, or a practice equivalent.

(2) "Practice equivalent" shall mean:

(A) Service as a law professor concentrating in the teaching of criminal law for one year or more, which may be substituted for one year of experience to meet the five-year requirement set forth in Rule .2510(b)(1) above;

(B) Service as an Article III or federal magistrate judge for one year or more, which may be substituted for one year of experience to meet the five-year requirement set forth in Rule .2510(b)(1) above;

(3) For the subspecialty of federal criminal law, the board shall require an applicant to show substantial involvement by providing information that demonstrates the applicant's significant federal criminal trial experience such as:

(A) representation during the applicant's entire legal career as principal counsel of record in federal criminal trials, whether concluded by jury verdict or not;

(B) court appearances in other substantive criminal proceedings in the U.S. District Courts of any jurisdiction;

(C) pre-charge representation in matters being investigated by federal law enforcement agencies; and

(D) representation as principal counsel of record in criminal appeals to any federal appellate court.

(c) Continuing Legal Education - In the federal criminal law subspecialty, an applicant must have earned no less than 40 hours of accredited continuing legal education credits in criminal law during the three years preceding the application, which must include the following:

(1) at least 34 hours in skills pertaining to federal criminal law, such as evidence, substantive criminal law, federal criminal procedure, criminal trial tactics, pre-trial or pre-charge advocacy, criminal appeals (including any annual update pertaining to the docket of a federal appellate or the U.S. Supreme Court); and

(2) at least 6 hours in the area of ethics.

(d) Peer Review -

(1) Each applicant for certification as a specialist in the subspecialty of federal criminal law must make a satisfactory showing of qualification through peer review.

(2) All references must be licensed and in good standing to practice in North Carolina and must be familiar with the competence and qualifications of the applicant in the specialty field. The applicant consents to the confidential inquiry by the board or the specialty committee of the submitted references and other persons concerning the applicant's competence and qualifications.

(3) Written peer reference forms will be sent by the board or the specialty committee to the references. Completed peer reference forms must be received from at least five of the references. The board or the specialty committee may contact in person or by telephone any reference listed by an applicant.

(4) Each applicant must provide for reference and independent inquiry the names and addresses of the following: (i) ten lawyers and/or judges who practice in the field of criminal law and who are

familiar with the applicant's practice, and (ii) opposing counsel and the judge in eight recent cases tried by the applicant to verdict or entry of order.

- (5) A reference may not be related by blood or marriage to the applicant, may not be a partner or associate of the applicant, and may not work in the same government office as the applicant at the time of the application.
- (e) Examination - The applicant must pass a written examination designed to test the applicant's knowledge and ability.
- (1) Terms - The examination shall be in written form and shall be given at such times as the board deems appropriate. The examination shall be administered and graded uniformly by the specialty committee.
 - (2) Subject Matter - The examination shall cover the applicant's knowledge in the following topics in federal criminal law:
 - (A) the Federal Rules of Evidence;
 - (B) federal criminal procedure and federal laws/federal case law affecting criminal procedure;
 - (C) federal constitutional law;
 - (D) the United States Sentencing Guidelines, and the calculation and application thereof;
 - (E) trial procedure and trial tactics;
 - (F) pre-charge advocacy and tactics;
 - (G) substantive federal criminal law; and
 - (H) federal appellate procedure and tactics.
 - (3) Required Examination Components - An applicant for certification in the subspecialty of federal criminal law must pass the examination on general topics in criminal law and the examination on federal criminal law.

*History Note: Authority G.S. 84-23;
Approved by the Supreme Court June 15, 2022 and re-entered into the Supreme Court's minutes March 20, 2024.*