

SUBCHAPTER 1F - REGULATIONS FOR FOREIGN LEGAL CONSULTANTS

SECTION .0100 - FOREIGN LEGAL CONSULTANTS

27 NCAC 01F .0101 APPLICATIONS

All applications for certification as a foreign legal consultant must be made on forms supplied by the North Carolina State Bar and must be complete in every detail. Every supporting document required by the application form must be submitted with each application. The application form may be obtained by writing or by telephoning the Bar's offices.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0102 APPLICATION FORM

(a) The application for certification as a foreign legal consultant form requires an applicant to supply full and complete information under oath relating to the applicant's background, including family history, past and current residences, education, military service, past and present employment, citizenship, credit status, involvement in disciplinary, civil, or criminal proceedings, substance abuse, mental treatment and bar admission and discipline history.

(b) Every applicant must submit as part of the application:

- (1) A certificate from the authority that has final jurisdiction regarding matters of professional discipline in the foreign country or jurisdiction in which the applicant is admitted to practice law, or the equivalent thereof. This certificate must be signed by a responsible official or one of the members of the executive body of the authority, imprinted with the official seal of the authority, if any, and must certify:
 - (A) The authority's jurisdiction in such matters;
 - (B) The applicant's admission to practice law, or the equivalent thereof, in the foreign country, the date of admission and the applicant's standing as an attorney or the equivalent thereof; and
 - (C) Whether any charge or complaint has ever been filed with the authority against the applicant and if so, the substance of and adjudication or resolution of each charge or complaint.
- (2) A letter of recommendation from one of the members of the executive body of this authority or from one of the judges of the highest law court or court of general original jurisdiction of the foreign country, certifying the applicant's professional qualifications, and a certificate from the clerk of this authority or the clerk of the highest law court or court of general original jurisdiction, attesting to the genuineness of the applicant's signature;
- (3) A letter of recommendation from at least two attorneys, or the equivalent thereof, admitted in and practicing law in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant and their appraisal of the applicant's moral character;
- (4) Two sets of clear fingerprints;
- (5) Two executed informational Authorization and Release forms;
- (6) A birth certificate;
- (7) Copies of all applications to take a bar examination or an attorney's examination or for admission to the practice of law that the applicant has filed in any state or territory of the U.S., or the District of Columbia or in any foreign country;
- (8) Certified copies of any legal proceedings in which the applicant has been a party;
- (9) Two recent 2-inch by 3-inch photographs of the applicant showing a front view of the applicant's head and shoulders; and
- (10) Any other relevant documents or information as may be required by the North Carolina State Bar.

(c) The application must be filed in duplicate. The duplicate may be a photocopy of the original.

(d) The application and all required attachments shall be in English or accompanied by duly authenticated English translations.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0103 REQUIREMENTS FOR APPLICANTS

As a prerequisite to being certified as a foreign legal consultant, an applicant shall:

- (1) Possess the qualifications of character and general fitness requisite for an attorney and counselor at law and be of good moral character and entitled to the high regard and confidence of the public and have satisfied the requirements of Rule .0104 of this Section at the time the certificate is issued;
- (2) Have been admitted to practice as an attorney, or the equivalent thereof, in a foreign country for at least five years as of the date of application for a certificate of registration;
- (3) Certify in writing that he or she intends to practice in the State as a foreign legal consultant and intends to maintain an office in the State for this practice;
- (4) Be at least 21 years of age;
- (5) Have been actively and substantially engaged in the practice of law or a profession or occupation that requires admission to the practice of law, or the equivalent thereof, in the foreign country in which the applicant holds a license for at least five of the seven years immediately preceding the date of application for a certificate of registration and is in good standing as an attorney, or the equivalent thereof, in that country;
- (6) Have filed an application as prescribed in Rule .0102 of this Section;
- (7) Be at all times in good professional standing and entitled to practice in every state or territory of the U.S. or in the District of Columbia, in which the applicant has been licensed to practice law, and in every foreign country in which the applicant is admitted to the practice of law or the equivalent thereof and is not under any pending charges of misconduct. The applicant may be inactive and in good standing in any foreign country or in any state or territory of the U.S. or in the District of Columbia; and
- (8) Satisfy the Bar that the foreign country in which the applicant is licensed will admit North Carolina attorneys to practice as foreign legal consultants or the equivalent thereof.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0104 BURDEN OF PROVING MORAL CHARACTER AND GENERAL FITNESS

Every applicant shall have the burden of proving that the applicant possesses the qualifications of character and general fitness requisite for an attorney and counselor-at-law and is possessed of good moral character and is entitled to the high regard and confidence of the public.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0105 FAILURE TO DISCLOSE

No one shall be issued a certificate of registration as a foreign legal consultant in this state:

- (1) Who fails to disclose fully to the Bar, whether requested to do so or not, the facts relating to any disciplinary proceedings or charges as to the applicant's professional conduct, whether same have been terminated or not, in this or any other state, or any federal court or other jurisdiction or foreign country, or
- (2) Who fails to disclose fully to the Bar, whether requested to do so or not, any and all facts relating to any civil or criminal proceedings, charges or investigations involving the applicant, whether the same have been terminated or not in this or any other state, or any federal court or other jurisdiction or foreign country.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0106 INVESTIGATION BY COUNSEL

The counsel will conduct any necessary investigation regarding the application and will advise the Administrative Committee of the North Carolina State Bar of the findings of any such investigation.

History Note: Authority G.S. 84A-1 to 84A-8;
Adopted Eff. March 7, 1996;
Amended Eff. February 3, 2000.

27 NCAC 01F .0107 RECOMMENDATION OF ADMINISTRATIVE COMMITTEE

(a) Upon receipt of all completed application forms, attachments, filing fees and information required by the Bar, and completion of the Bar's investigation, the committee shall make a written recommendation to the council respecting whether an applicant for certification as a foreign legal consultant has met the requirements of G.S. 84A-1 and these rules. Prior to making a written recommendation, the committee may request further information from the applicant or other sources and may require the applicant to appear before it upon reasonable notice. The committee's written recommendation shall include a statement of the reason(s) for the committee's decision.

(b) A copy of the committee's recommendation shall be served upon the applicant pursuant to Rule 4 of the N.C. Rules of Civil Procedure.

History Note: Authority G.S. 84A-1 to 84A-8;
Adopted Eff. March 7, 1996;
Amended Eff. February 3, 2000.

27 NCAC 01F .0108 APPEAL FROM COMMITTEE DECISION

(a) The applicant will have 30 days from the date of service of the committee's recommendation in which to serve a written request for a hearing upon the secretary pursuant to Rule 4 of the N.C. Rules of Civil Procedure.

(b) If the applicant does not request a hearing in a timely fashion, the committee will forward its recommendation to the council. The council will consider the application and the recommendation of the committee and will make a final written recommendation to the N.C. Supreme Court, as set out in 27 NCAC 01F .0110(f) of this Subchapter.

History Note: Authority G.S. 84A-1 to 84A-8;
Adopted Eff. March 7, 1996;
Amended Eff. February 3, 2000.

27 NCAC 01F .0109 HEARING PROCEDURE

(a) Notice, Time & Place of Hearing

(1) The chair of the committee shall fix the time and place of hearing within 30 days after the applicant's request for a hearing is served upon the secretary. The hearing shall be held as soon as practicable after the request is filed.

(2) The notice of the hearing shall include the date, time and place of the hearing and shall be served upon the applicant at least 10 days before the hearing date.

(b) Hearing Panel:

(1) The chair of the committee shall appoint a hearing panel composed of three members of the committee to consider the application and make a written recommendation to the council.

(2) The chair shall appoint one of the three members of the panel to serve as the presiding member. The presiding member shall rule on any question of procedure which arises during the hearing; preside at the deliberations of the panel, sign the written determinations of the panel and report the panel's determination to the council.

(c) Proceedings before the Hearing Panel:

(1) A majority of the panel members is necessary to decide the application.

(2) Following the hearing on the contested application, the panel will make a written recommendation to the council on behalf of the committee regarding whether the application should be granted. The recommendation shall include appropriate findings of fact and conclusions of law.

(3) The applicant will have the burden of proving that he or she has met all the requirements of 27 NCAC 01F .0102-.0104 of this Subchapter.

(4) At the hearing, the applicant and State Bar counsel will have the right:

(A) to appear personally and be heard

(B) to call and examine witnesses

(C) to offer exhibits

(D) to cross-examine witnesses

(5) In addition, the applicant will have the right to be represented by counsel.

(6) The hearing will be conducted in accordance with the North Carolina Rules of Civil Procedure for nonjury trials insofar as practicable and by the Rules of Evidence applicable in superior court, unless otherwise provided by this subchapter or the parties agree otherwise.

- (7) The hearing shall be reported by a certified court reporter. The applicant will pay the costs associated with obtaining the court reporter's services for the hearing. The applicant shall pay the costs of the transcript and shall arrange for the preparation of the transcript with the court reporter. The applicant may also be taxed with all other costs of the hearing, but the costs shall not include any compensation to the members of the hearing panel.
- (8) The written recommendation of the hearing panel shall be served upon the applicant and the counsel within 14 days of the date of the hearing.

History Note: Authority G.S. 84A-1 to 84A-8;
Adopted Eff. March 7, 1996;
Amended Eff. February 3, 2000.

27 NCAC 01F .0110 REVIEW AND ORDER OF COUNCIL

- (a) Review by Council. The applicant shall compile a record of the proceedings before the hearing panel, including a legible copy of the complete transcript, all exhibits introduced into evidence at the hearing, all pleadings and all motions and orders, unless the applicant and counsel agree in writing to shorten the record. Any agreement regarding the record shall be included in the record transmitted to the council.
- (b) Transmission of Record to Council. The applicant shall provide a copy of the record to the counsel not later than 90 days after the hearing unless an extension is granted by the president of the N.C. State Bar for good cause shown. The applicant shall transmit a copy of the record to each member of the council, at the applicant's expense, no later than 30 days before the council meeting at which the application is to be considered.
- (c) Costs. The applicant shall bear all of the costs of transcribing, copying, and transmitting the record to the members of the council.
- (d) Dismissal for Failure to Apply. If the applicant fails to comply fully with any provisions of this Rule, the counsel may file a motion with the secretary to dismiss the application.
- (e) Appearance before the Council. In his or her discretion, the president of the State Bar may permit the counsel for the State Bar and the applicant to present oral or written argument but the council will not consider additional evidence not in the record transmitted from the hearing panel absent a showing that the ends of justice so require or that undue hardship will result if the additional evidence is not presented.
- (f) Order by Council. The council will review the recommendation of the hearing panel and the record and will determine whether the applicant has met all of the requirements of Rules .0102 - .0104 of this Section. The council will make a written recommendation to the N.C. Supreme Court regarding whether the application should be granted. The council's recommendation will contain a statement of the reasons for the recommendation and shall attach to it the application.
- (g) Costs. The council may tax the costs attributable to the proceeding against the applicant.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0111 APPLICATION FEES; REFUNDS; RETURNED CHECKS

- (a) Every application and every reapplication for certification as a foreign legal consultant shall be accompanied by a fee of two hundred dollars (\$200.00) paid in U.S. currency.
- (b) No part of the fee will be refunded.
- (c) Failure to pay the application fees required by these Rules shall cause the application to be deemed not filed. If the check payable for the application fee is not honored upon presentment for any reason other than error of the bank, the application will be deemed not filed. All checks presented to the Bar for any fees which are not honored upon presentment will be returned to the applicant, who shall pay the Bar in cash, cashier's check, certified check or money order any fees payable to the Bar, along with a twenty dollar (\$20.00) additional fee for processing the dishonored check.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0112 PERMANENT RECORD

All information furnished to the Bar by an applicant shall be deemed material, and all such information shall be and become a permanent record of the Bar. Records, papers and other documents containing information collected or compiled by the North Carolina State Bar and its members or employees as a result of any investigation, application, inquiry or interview

conducted in connection with an application for certificate of registration are not public records within the meaning of G.S. 132.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.

27 NCAC 01F .0113 DENIAL; RE-APPLICATION

No new application or petition for reconsideration of a previous application from an applicant who has been denied a certificate of registration as a foreign legal consultant shall be considered by the Bar within a period of three years next after the date of such denial unless, for good cause shown, permission for reapplication or petition for a reconsideration is granted by the Bar.

History Note: Authority G.S. 84-4;
Eff. March 7, 1996.