

LAW STUDENT APPEARANCE PROGRAM

13.05 Purpose of Law Student Appearance Program

The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay reasonable fees for these services. As one means to develop trial and appellate advocacy skills and to encourage law schools to provide clinical instruction in trial and appellate work, Rules 13.05 to 13.30 are adopted. Nothing contained in these rules shall affect the right of any person who is not admitted to the practice of law to do anything that the person might lawfully have done prior to the adoption of these rules.

13.10 Appearances and Activities of Eligible Law Student

- (1) An eligible law student may appear before any court or before any administrative tribunal in this state in accordance with this rule. As used herein, "appear" or "appearance" means personal appearance before a court or an administrative tribunal.
- (2) The law student shall at all times be subject to the supervision of a member of the Oregon State Bar, except as provided in subparagraph (3) of this rule.
- (3) Subject to the client's approval as hereinafter provided, an eligible law student may appear for a client, with or without the supervising attorney being present, except as hereinafter provided. The extent of the law student's participation shall be determined by the supervising attorney, giving due consideration to the nature of the case, the ability and experience of the student and the complexity of the factual and legal issues involved.
- (4) Except as provided for in subparagraph (5) of this rule, no law student shall appear without the supervising attorney in (a) any criminal case in which the defendant may be subject to a felony conviction, (b) any juvenile case where the act committed by the juvenile if committed by an adult would have been considered a felony, (c) any commitment proceedings, or (d) any appellate court to make oral argument.
- (5) Subject to the requirement of 13.20(2)(d) as to any law student eligible through 13.20(2), an eligible law student may appear in any civil or criminal matter, on behalf of the state or any other governmental body, with the written consent of the supervising attorney of the state agency or governmental body.

- (6) No law student shall appear until the client, the supervising attorney and the judge of the court or the presiding officer of the tribunal have consented to such appearance. The supervising attorney shall be responsible for explaining to the client the nature and extent of the law student's participation and for obtaining the client's consent to such participation. The client's consent shall be in writing and filed with the court or tribunal and become part of the record of the case.

13.15 Other Activities of Eligible Law Student

- (1) An eligible law student may engage in other activities, under the general supervision of a member of the bar but outside the personal presence of that attorney, including:
 - (a) 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 attorney;
 - (b) Preparation of briefs, abstracts and other documents to be filed in the appellate courts of this state; but such documents must be signed by the supervising attorney;
 - (c) Assistance to indigent inmates of correctional institutions or other persons convicted of crimes who request such assistance in preparing habeas corpus applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of the Court; provided that if there is an attorney of record in the matter, all such assistance must be supervised both by the supervising attorney and the attorney of record, and all documents submitted to the court on behalf of such client must be signed by the attorney of record; and
 - (d) The taking of depositions or statements under oath, the preparation of affidavits or declarations of witnesses, negotiations and investigations related to an active litigation matter.
- (2) Each document or pleading prepared under subparagraph (1) of this rule 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.
- (3) Eligible law students may engage in non-litigation related matters, under the general supervision of a member of the bar, but outside the personal

presence of that attorney, including without limitation: client intake, documents related to estate planning, contract drafting and negotiations, documents related to interests in real estate and personal property, and business formation. Any document prepared by the eligible law student must be signed or approved by the supervising attorney before execution by any interested party, and the document must state the extent to which the student was involved in drafting the document. If an activity does not result in a legal document to be reviewed, a memorandum recording the eligible law student's activities must be kept in the file related to the relevant matter.

13.20 Requirements and Limitations

- (1) Unless a law student falls within subsection (2) of this provision, to be eligible for certification pursuant to these rules, a law student must:
 - (a) Be duly enrolled in or have graduated from a law school approved by the American Bar Association;
 - (b) Have completed legal studies amounting to at least four semesters of full-time law study or the equivalent, which may include summer, night or externship courses;
 - (c) Be of good character and be adequately trained to perform competently as a legal intern;
 - (d) Certify in writing to the dean of the law school that the student has taken and passed either the Multistate Professional Responsibility Examination (MPRE) or a course on professional responsibility;
 - (e) Certify in writing to the dean of the law school that the student has taken and passed a course on evidence; and
 - (f) Cause the dean of the student's law school to certify that the student is eligible under subsections (a), (b), (c), (d) and (e) substantially in the form set forth in Appendix A.
- (2) A student currently enrolled in a law school approved by the American Bar Association need not satisfy section (1) to be eligible for certification, but the law student must:
 - (a) Have completed legal studies amounting to at least two semesters of full-time law study or the equivalent, which may include summer, night or externship courses;

- (b) Be of good character and be adequately trained to perform competently as a legal intern;
 - (c) Be enrolled in a law school clinic class that trains students about the relevant substantive, procedural and practical issues, including evidence and professional responsibility.
 - (d) Be supervised by an active member of the Oregon State Bar, who will be physically present at counsel table and able to supervise the law student at all court appearances; and
 - (e) Cause the dean of the student's law school to certify that the student is eligible under 13.20(2), substantially in the form set forth in Appendix B.
- (3) A law student's certification and ability to appear under section 13.20(2) expires at the end of the law school clinic class.
 - (4) A certified law student shall neither ask for nor receive any compensation or remuneration of any kind for the student's services directly from the client on whose behalf service is rendered; but an attorney, legal aid organization, law school, public defender or any governmental body may pay compensation to the eligible law student as an employee, and the employer may charge for the student's services.

The certified law student's supervising attorney shall introduce the law student to the court or tribunal in which the student is to appear.

13.25 Certification Procedure

The certification of a student by the law school dean:

- (1) Shall be filed with the State Court Administrator and, unless it is withdrawn sooner, shall remain in effect until twelve (12) months following the date the student graduates from the law school. To file a certification with the State Court Administrator, a law school dean may email an electronic version of the signed certification to the Executive Administrator for the Oregon Supreme Court, who acts as the State Court Administrator's designee for the purpose of processing law student certifications.
- (2) May be withdrawn by the dean at any time by mailing a notice to that effect to the State Court Administrator. It is not necessary that the notice state the cause for withdrawal.

- (3) May be terminated by the Court at any time without notice or hearing and without any showing of cause. Notice of the termination shall be filed with the State Court Administrator.

13.30 Supervision

The member of the bar under whose supervision an eligible law student does any of the things permitted by these rules shall assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work. The supervising attorney shall assist the student's analysis, preparation and performance to the extent the supervising attorney considers appropriate, giving at all times consideration to the interests of the client.