

SUPERVISED PRACTICE PORTFOLIO EXAMINATION
(SPPE)

SUPERVISING ATTORNEY AND EMPLOYER FAQ

In November 2023, the Oregon Supreme Court approved the Supervised Practice Portfolio Examination (SPPE) as a new model of examination for admission to the Oregon State Bar. As of May 2024, applicants to the Oregon State Bar (OSB) have a choice of how to demonstrate their competence to practice law. They can take the traditional bar exam, or they can work under supervision following graduation from law school, and then submit a portfolio of legal work product to the Board of Bar examiners to review for admission to the OSB.

Please note that the [SPPE rules](#) and other [Rules for Admission](#) (RFA) govern all admissions to the OSB. This FAQ provides helpful summaries, but participants should rely on the rules as the governing authority. We are updating these FAQ periodically. The date at the end of each FAQ indicates when it was last updated.

The Admissions Department will attempt to answer other general questions emailed to sppe-supervisor@osbar.org. Please note, however, that staff cannot give legal advice or advisory opinions on program eligibility or compliance. That email is designed for questions of a more general nature.

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

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If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

GENERAL QUESTIONS

Why should our organization consider participating in the SPPE?

The SPPE allows law school graduates to develop the knowledge and skills they need to practice effectively. Provisional Licensees learn by doing: They can perform most of the lawyering tasks that newly licensed lawyers perform, while honing their skills through the supervision and feedback of their Supervising Attorney. An [article](#) from Harvard Law School’s Center on the Legal Profession equates supervised practice programs with “practice-ready licensing.” That article summarizes the many benefits reported by Supervising Attorneys and Employers in a California program. *(Last Updated 7/12/24)*

Is there a lot of paperwork?

No. Supervising Attorneys and employers each complete applications that are available on the [SPPE website](#). Once a Provisional Licensee starts work, the Supervising Attorney approves weekly timesheets (prepared by the Provisional Licensee) and completes brief templates associated with the work product that Provisional Licensees submit to the Board of Bar Examiners. The Provisional Licensees handle most paperwork and other administrative aspects of the program—and they count those hours towards the total needed for admission to the bar. *(Last updated 7/12/24)*

What other responsibilities do Supervising Attorneys have in this program?

The Supervising Attorney’s primary responsibility is to supervise the Provisional Licensee’s work. The level of supervision is the same as for students who hold Certified Law Student licenses, although law school graduates working full-time for the employer should be able to handle more complex tasks and take on more responsibility. SPPE Rules 5.1(C), 5.3(D). Supervising Attorneys may share supervisory responsibility with other attorneys in their organization who are active members of the Oregon bar and qualified to provide adequate supervision. SPPE Rule 5.4. For more details on these supervisory responsibilities, see the sections on [Hours and Timesheet](#), [Written Work Product](#), [Client Interactions](#), [Negotiations](#), and [Other Portfolio Requirements](#) below.

In addition, Supervising Attorneys must:

- Watch video training modules explaining the SPPE program. MCLE credit is available for watching those videos. SPPE Rules 5.3(A), 14.2.
- Watch or attend at least 2 hours of training on issues of diversity, equity, and inclusion that may arise in the SPPE program. MCLE credit is also available for this training. SPPE Rules 5.3(A), 14.1.
- Supervise the Provisional Licensee’s schedule and workload to give them sufficient time to complete program requirements. SPPE Rule 5.3(B).

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- Accommodate the Provisional Licensee’s reasonable requests for work that will help them complete the program or otherwise develop their professional skills. SPPE Rule 5.3(C).
- Complete the brief templates required for submission of the Provisional Licensee’s Portfolio materials. SPPE Rule 5.3(E)
- Provide regular feedback that will help the Provisional Licensee develop their skills and better serve clients. SPPE Rule 5.3(F)-(G).

(Last updated 7/12/24)

What are the basic responsibilities of employers who participate in the program?

Employers must:

- Complete an Employer Application. SPPE Rule 2.2.
- Employ a Provisional Licensee for at least 20 hours of legal work per week, and provide the Provisional Licensee at least the salary and benefits provided to other recent law school graduates. SPPE Rules 2.2(C)-(D), 5.2(B). A limited exception to these requirements is available under SPPE Rule 2.3.
- Provide Professional Liability Coverage for the Provisional Licensee (or obtain a waiver of that requirement). SPPE Rules 2.2(F), 4.1, 4.2.
- Provide the Provisional Licensee with the appropriate workspace, tools, and technology to accomplish assigned tasks. SPPE Rule 5.2(C).
- Include Provisional Licensees in training programs or other educational activities provided to other new lawyers working for the employer, and compensate Provisional Licensees for that time to the same extent that other new lawyers are compensated for that time. SPPE Rule 5.2(D)-(E).
- Arrange the Provisional Licensee’s schedule and workload to give the Provisional Licensee sufficient time to complete portions of the program that do not benefit the employer directly. The employer need not compensate the Provisional Licensee for that time, unless other new lawyers are compensated for that time. SPPE Rule 5.2(F).
- Provide reasonable accommodations related to workplace conditions or assignments for Provisional Licensees who live with disabilities. SPPE 11.1.

(Last updated 7/12/24)

What are the basic requirements for a Provisional Licensee to complete the program?

Once admitted to the program, a Provisional Licensee must satisfactorily complete each of the following requirements. Each of these requirements is discussed in further detail in the SPPE Rules, the Applicant FAQ, and the SPPE training videos.

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

- 8 Written Work Products
- 2 Client Interactions
- 2 Negotiations
- Evidence of competence in Professional Responsibility
- Up to 4 hours of training videos on the SPPE program
- 15 hours of MCLE Practice Overviews
- 10 hours of activities related to diversity, equity, inclusion, or access to justice
- 675 hours of work toward the program, evidenced by weekly timesheets
- An interim portfolio and learning plan

(Last updated 7/12/24)

Will OSB publicly identify how an attorney was licensed?

Public facing information, including the member’s directory, does not include this information. The information, however, is included in OSB public records and is discoverable if someone asks about the membership path of a specific attorney. *(Last updated 7/12/24)*

What is the difference between the SPPE and the Provisional Licensing Program (PLP)?

The PLP was a remedy for a poor exam experience. It was open only to people who sat for the Oregon February 2022 Bar Exam. The PLP stopped accepting applications on January 1, 2024; thus, it is no longer open to new applicants. The main differences in requirements are that the PLP required significantly more hours than the SPPE, and the PLP capped the number of times that candidates could submit work product without failing out of the program. *(Last updated 7/12/24)*

How long will it take for a Provisional Licensee to be fully licensed under SPPE?

OSB cannot predict how long Provisional Licensees will take to complete the program. That depends on each Provisional Licensee’s available time, speed of professional development, and workplace opportunities. The SPPE follows principles of universal design, allowing Provisional Licensees with disabilities, caretaking responsibilities, and other time demands to pursue the program at their own pace.

When planning their progress through the program, Supervising Attorneys and Provisional Licensees should focus on the Provisional Licensee’s professional development, rather than on the required hours. OSB anticipates that many Provisional Licensees will exceed the hour requirement while they work to complete other program elements.

Program completion also depends upon the schedule of SPPE grading sessions. The Board has scheduled two sessions for 2024, one in mid-August and the other in mid-

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October. It anticipates scheduling four grading sessions in 2025, most likely in January, April, July, and October. Precise dates for grading sessions will be confirmed closer to those times. Most Provisional Licensees will need at least two grading sessions to complete the pathway. We anticipate that the earliest any Provisional Licensee who starts the program in 2024 can be admitted to the bar is in November: after the October 2024 grading session and the required final check of character and fitness. *(Last updated 7/12/24)*

Does OSB have a matching program to connect employers and Supervising Attorneys with interested law school graduates who are interested in pursuing the SPPE?

No, OSB does not have that capacity at this time. Some employers have advertised for Provisional Licensees using traditional hiring methods. You may also want to contact the career services departments at regional law schools. Oregon's volunteer bar associations may also know about graduates who are interested in pursuing this program. *(Last updated 7/12/24)*

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PORTABILITY AND RECIPROCITY

If someone takes the Uniform Bar Exam (UBE), they can transfer their score to other UBE jurisdictions. Is the same true for the SPPE? May a Provisional Licensee transfer their success to other jurisdictions?

No. Successfully completing the SPPE makes a Provisional Licensee eligible for bar admission in Oregon, but not in other jurisdictions. If other states adopt similar programs in the future, SPPE success may become portable. For now, however, that is not possible. *(Last updated 7/12/24)*

What about reciprocity? Will other jurisdictions recognize admission through the SPPE after a Provisional Licensee has practiced for a few years?

That depends on the jurisdiction. “Reciprocity” in this context means that a lawyer admitted to practice in one jurisdiction may gain admission in another jurisdiction without having to take the second jurisdiction’s bar exam. Many lawyers refer to reciprocity as “admission on motion.” These rules vary widely among jurisdictions.

Eight states (California, Delaware, Florida, Hawaii, Louisiana, Nevada, Rhode Island, and South Carolina) do not permit reciprocity. If a Provisional Licensee is admitted to the bar in Oregon, whether through the UBE or SPPE, they will not be eligible for admission on motion in those states.

Fourteen other states limit reciprocity to lawyers who have passed a “written bar examination.” The SPPE is not a traditional “written bar examination,” but the Oregon Supreme Court has held that it counts as the “examination” required for admission to practice in Oregon under [ORS 9.220\(3\)](#). It is possible that other jurisdictions will also recognize the SPPE as an “examination,” but that has not yet been tested.

For other jurisdictions, passing the SPPE instead of the UBE should impose no special hurdle to reciprocity. Applicants should be aware, however, that jurisdictions impose other conditions on reciprocity. All require candidates to be in good standing in their other licensing jurisdiction(s) and to have practiced law for 3-5 recent years. Definitions of “law practice,” as well as the required length of time, vary among jurisdictions.

An overview of reciprocity requirements is available from the *Comprehensive Guide to Bar Admissions*, jointly published by the ABA and the NCBE. Be sure to check both charts summarizing these requirements: [Chart One](#) and [Chart Two](#). And for authoritative information about reciprocity in any jurisdiction, check that jurisdiction’s bar admissions website and rules. *(Last updated 7/12/24)*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

PROGRAM ELIGIBILITY

What qualifications must an employer meet to participate in the SPPE program?

Under SPPE Rule 2.2, the employer must be a “law firm, solo practitioner, business entity, non-profit organization, or government agency (including instrumentalities thereof)” that “(A) Is authorized to practice law, do business, regulate, or otherwise operate within Oregon,” and “Regularly practices law, does business, regulates, or otherwise operates within Oregon.” Employers must also:

- Employ the Provisional Licensee for at least 20 hours of legal work per week and provide the Provisional Licensee at least the salary and benefits provided to other recent law school graduates. SPPE Rules 2.2(C)-(D). A limited exemption from these requirements is available if the Provisional Licensee has a grant or stipend, or if the Provisional Licensee volunteers to provide pro-bono services and the Employer does not bill the client for those services. SPPE Rule 2.3.
- Employ an attorney who is qualified to serve as a Supervising Attorney and agrees to do so. SPPE Rule 2.2(E).
- Provide Professional Liability Coverage for the Provisional Licensee (or obtain a waiver of that requirement), and pay for that coverage to the same extent as they would for another new lawyer. SPPE Rule 2.2(F).
- Sign the “Declaration of an Employer,” which is part of the application form. SPPE Rule 2.2(G).

(Last updated 7/12/24)

What does it mean to regularly practice law, do business, regulate, or otherwise operate within Oregon?

“Regularly practices law, does business, regulates, or otherwise operates within Oregon” means that the employer maintains a continuous presence in the state. An office located in Oregon is not necessary, although that offers one sign of a continuous presence. Other indications of a continuous presence include appearing before courts, administrative agencies, or other tribunals in Oregon; and representing Oregon clients on legal matters.

To qualify for participation in the SPPE, an employer should have at least one Oregon-related legal matter active at any time. Employers without a robust Oregon practice should review carefully the FAQs related to Multistate and Federal Practice. An Oregon Provisional License only authorizes the Provisional Licensee to practice in Oregon. *(Last Updated [])*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

I cannot afford to hire an applicant for full-time work. Can I still participate in the program?

An employer must provide at least 20 hours of paid work per week (unless they qualify for the exception in SPPE Rule 2.3). If you can provide at least that amount of paid work, then you can participate in the program. The applicant can work through the program at a slower pace, supplement their paid work with pro bono work, or find a second Supervising Attorney with another employer. *(Last updated 7/12/24)*

I am part of a non-profit organization that employs attorneys as in-house counsel but does not have clients. Can this type of work qualify for the pro bono exception?

No, this is a narrow exception that requires the Provisional License to “provide pro bono services to a client of the Employer” who is not billed for those services. The situation you describe does not fit that exception. If a Provisional Licensee works for in-house counsel, whether in a for-profit company or a nonprofit, the Provisional Licensee must be paid. *(Last updated 7/12/24)*

What qualifications do Supervising Attorneys need to participate in the SPPE program?

Under SPPE Rule 2.4, to serve as a Supervising Attorney, an individual must:

- Be an active member of the Oregon State Bar; have been an active member of that bar for two or more years preceding the application; and have been an active member of the bar in at least one jurisdiction for at least three of the five years preceding the application. A federal judge, magistrate, or bankruptcy judge whose primary chambers are in Oregon, however, may serve as a Supervising Attorney without meeting this set of qualifications.
- Have no record of public discipline in any jurisdiction to which they are or have been members or obtain a waiver of this requirement under Rule 2.6.
- Be employed by the same Employer as the Provisional Licensee.
- Not be an immediate family member of the Provisional Licensee they will supervise.
- Sign the “Declaration of Supervising Attorney,” which is part of the application form.

(Last updated 7/12/24)

The rules say that a Supervising Attorney cannot be a Provisional Licensee’s “immediate family member.” How do you define “immediate family member”?

An “immediate family member” includes (1) a parent, child, or sibling, whether biological, adopted, foster, or related by marriage; and (2) a spouse, former spouse, cohabitant, or former cohabitant. SPPE Rule 2.4. *(Last updated 7/12/24)*

Must a Supervising Attorney be a full-time attorney?

A Supervising Attorney does not have to work full-time for the employer, but they must be an employee who regularly provides work to the employer and receives compensation for that work. They must also be able to supervise the Provisional Licensee appropriately and fulfill the other program requirements.

SPPE Rule 1.2 defines an Employee as “any individual regularly providing work to an employer and receiving compensation for that work, whether the individual is formally designated a partner, member, employee, of counsel, consultant, independent contractor, or other similar term.” *(Last updated 7/12/24)*

Can a Supervising Attorney be an unpaid Board Member of the employer?

No, a Supervising Attorney must be a paid employee. Based on SPPE Rule 1.2’s definition of an employee, an unpaid Board Member does not qualify as an employee. *(Last updated 7/12/24)*

I have a record of disciplinary action in a jurisdiction where I am licensed to practice law. Can I still serve as a Supervising Attorney?

If an attorney has a disciplinary record from more than 5 years ago but no other disciplinary proceedings since then, they can seek a waiver from the Board of Bar Examiners (Board) under SPPE Rule 2.6. After they submit their Supervising Attorney application, they should submit a letter seeking a waiver to sppe-supervisor@osbar.org. The letter must state that they seek a waiver of SPPE Rule 2.4 from the Board, and explain their rehabilitation and fitness to serve as a Supervising Attorney. The Board or a subset of the Board may interview the attorney to determine their fitness to serve before the Board makes a ruling on the petition. The Board’s decision on the attorney’s fitness to serve is final, with no right to appeal.

If the attorney has a record of public discipline within the last 5 years, then they cannot serve as a Supervising Attorney. *(Last updated 7/12/24)*

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What qualifications do applicants need to pursue the SPPE?

To pursue the SPPE, applicants must:

- Be at least 18 years old;
- Show that they have satisfactorily completed law school courses in Business Associations, Civil Procedure, Constitutional Law, Contract Law, Criminal Law or Investigatory Criminal Procedure, Evidence, Torts, and Real Property;
- Secure a commitment of employment from a qualified employer;
- Secure a commitment from a qualified Supervising Attorney to serve in that role; and
- Meet one of the following educational requirements. These requirements are identical to the eligibility requirements to sit for Oregon’s traditional bar exam:
 - Hold a JD or LLB degree from an ABA-accredited law school; RFA 3.05(1).
 - Hold a JD or LLB degree from a non-ABA accredited law school in the United States, and:
 - Be admitted to practice before the highest tribunal of another state, the District of Columbia, or a federal territory where the requirements for admission are substantially equivalent to Oregon’s requirements;
 - Practice in that jurisdiction for at least three of the five years immediately preceding application for the program. RFA 3.05(2).
 - Hold a JD-equivalent degree from a law school in a foreign jurisdiction, and be able to show that:
 - The requirements for admission to practice law in Oregon and in the jurisdiction where the applicant was educated are substantially similar;
 - Either the applicant is currently admitted to practice law in a jurisdiction where English Common Law is the basis of the jurisdiction’s jurisprudence, or the applicant has been admitted to practice law in any US jurisdiction after passing a US bar exam; and
 - The applicant graduated from a law school that is equivalent to an ABA-accredited law school. RFA 3.05(3).

(Last updated 7/12/24)

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

MULTISTATE AND FEDERAL PRACTICE

Do Supervising Attorneys have to be located in Oregon?

No, but the Supervising Attorney must have “been an active member of the Oregon State Bar for two or more years preceding the application to serve as a Supervising Attorney,” SPPE Rule 2.4(B), and their employer must “regularly” practice law, do business, regulate, or otherwise operate within Oregon. SPPE Rule 2.2(B). Out-of-state attorneys whose employer only occasionally practices in Oregon are not eligible to serve as Supervising Attorneys in the SPPE program.

In addition, as explained further below, Supervising Attorneys located out-of-state should ensure that they have sufficient work related to Oregon or federal law that Provisional Licensees will be able to fulfill the program requirements. *(Last updated 7/12/24)*

Do Provisional Licensees have to be located in Oregon?

No, but Provisional Licensees who are located in other states, as well as the Supervising Attorneys who supervise them, must recognize that the SPPE Provisional License only authorizes practice in Oregon. With respect to other states, Provisional Licensees hold the status of a law graduate who has not yet been licensed. Provisional Licensees and Supervising Attorneys must comply with Oregon’s Rule of Professional Conduct 5.5 (Unauthorized Practice of Law), the equivalent Rule of Professional Conduct in the other state, and laws related to the unauthorized practice of law in that state. The Oregon State Bar cannot advise SPPE participants on the rules regulating the unauthorized practice of law in other states.

Supervising Attorneys and Provisional Licensees should also be aware that Oregon’s Professional Liability Fund may not cover work that Provisional Licensees perform that is unrelated to Oregon clients. Supervising Attorneys and employers should check their liability coverage (whether through the PLF or another carrier) and ensure that they have adequate coverage for all a Provisional Licensees’ work. *(Last updated 7/12/24)*

May Provisional Licensees submit work product related to the law of other states?

Provisional Licensees may not submit documentation of client interactions or negotiations based on the law of another state, because those lawyering tasks raise too much risk of constituting the unauthorized practice of law with respect to that state.

For written work product, SPPE Rule 6.4(C) requires the Supervising Attorney to attest that the writing “sufficiently reflects the knowledge/research, analysis, and writing of the Provisional Licensee that the Board can meaningfully assess the Provisional Licensee’s competence from the work product.” Meeting that standard might put the Provisional Licensee at risk of engaging in the unauthorized practice of law in the other

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jurisdiction. Oregon examiners and graders, moreover, will have more difficulty evaluating the quality of work product based on the law of other states. For those reasons, the examiners will not currently accept any work product based on the law of another state. The Board is reviewing that position and will notify Provisional Licensees if it changes. *(Last updated 7/12/24)*

May Provisional Licensees count hours working with the law of other states towards the 675 hours required for SPPE licensing?

Yes, as long as that work does not constitute the unauthorized practice of law. Some legal work, such as research, does not constitute law practice. Other types of legal work require a law license. With respect to states other than Oregon, Provisional Licensees are law graduates who have not yet been licensed; they must abide by the restrictions on that status. *(Last updated 7/12/24)*

May Provisional Licensees work with federal law?

Yes. Provisional Licensees may also submit written work product, client interactions, and negotiations related to federal law—as long as their Supervising Attorney is qualified to supervise their work in that area. *(Last updated 7/12/24)*

APPLYING TO THE PROGRAM

Can I sign up to be a Supervising Attorney or employer for this program without identifying an applicant/Provisional Licensee?

No. At this point, we can only process applications from Supervising Attorneys and employers who have already employed (or agreed to employ) an applicant who plans to use the SPPE to seek bar admission. *(Last updated 7/12/24)*

Are employers and Supervising Attorneys able to submit their applications yet?

Yes, those applications are available on the SPPE website, together with FAQ's explaining the applications. The materials for employers are available at <https://www.osbar.org/sppe/employer.html>, and the materials for Supervising Attorneys are available at <https://www.osbar.org/sppe/supervisingattorney.html>. We are unable to process applications by mail, email, or other means. *(Last updated 7/12/24)*

I don't intend to hire the applicant until they receive a Provisional License. Should I still submit an application now?

Yes. It is appropriate for an employer and Supervising Attorney to submit applications as soon as they have made a commitment to hire the applicant. You can indicate whether the applicant has already started work for your organization or whether they will start work in the future on your application form.

We can't begin the process of vetting an applicant and issuing their Provisional License until we have the Employer and Supervising Attorney applications. *(Last updated 7/12/24)*

Should I do anything before starting the application?

Yes, please follow these steps:

- Review the SPPE Program Rules, especially Section 2 (Qualifications of Program Participants), Section 5 (Roles and Duties of Program Participants), and Section 6 (Program Requirements).
- Identify the applicant for a Provisional License who you plan to supervise in the program.
- Confirm that your organization is qualified and willing to serve as an Employer in the program.
- Review Sections 2 (Supervising Attorney Bar Admissions and Discipline), 3 (Supervising Attorney Qualifications), 4 (Program Requirements), and 5 (Supervising Attorney's Declaration) of the application. Make sure that you have the information to respond to the questions and statements in those sections.

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

- If you have been admitted to practice in any jurisdiction other than Oregon, obtain a Certificate of Good Standing and Disciplinary Statement for those jurisdictions. Most jurisdictions provide that information through a simple online request. You will need to attach those certificates and statements (which cannot be more than 90 days old) to your application. *(Last updated 7/12/24)*

Do I have to submit a fee with the Supervising Attorney application or employer application?

No. The applicant seeking a Provisional License will pay the fee for this program when they submit their application. If your organization can reimburse the applicant for that fee (as some employers do for bar exam expenses), we encourage the organization to do so. Employers and Supervising Attorneys, however, do not have to pay any fees with their applications. *(Last updated 7/12/24)*

Why does the Smartsheet submission form ask me to repeat information on the application?

We apologize for the repetition, but this is the most efficient way for Admissions Department staff to track applications and process them in a timely manner. We value your time and will try to make other portions of this process as easy as possible. *(Last updated 7/12/24)*

Several attorneys in our organization plan to work with the applicant. Should we each submit a Supervising Attorney application?

No. The program works best if an applicant has a single Supervising Attorney overseeing their work. The SPPE rules allow the Supervising Attorney to delegate some of their duties to another employee in the same organization who is an active member of the Oregon State Bar. Rule 5.4. That rule should give organizations and applicants sufficient flexibility. Note that a Supervising Attorney may make those delegations without seeking OSB permission. In unusual circumstances, two attorneys may apply to serve as Supervising Attorneys for the same applicant, but the rules do not allow a Provisional Licensee to have more than two Supervising Attorneys at one time. Rule 5.5(C). *(Last updated 7/12/24)*

What happens after I submit the Supervising Attorney application?

The Admissions Department staff will review your application to confirm that you qualify as a Supervising Attorney. If you and the Employer are approved, your applicant will receive a registration link in 2-3 weeks. *(Last updated 7/12/24)*

When should our organization submit the Employer application?

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

As soon as possible. Your organization may submit the Employer application at the same time as you submit your application—or even before you do so. Both applications must be submitted and processed before the applicant seeking a Provisional License may submit their application. *(Last updated 7/12/24)*

Who within our organization should submit the employer application?

Anyone who has the authority to bind the organization to the commitments in the application may submit the application. The person who submits the application will identify themselves on the application as the “Employer Representative.” That person will receive notices and updates about the SPPE program.

The Employer Representative does not have to be an attorney. A Human Resources officer or other individual with authority may submit the application. The Supervising Attorney may submit the Employer application, in addition to their own application, but we prefer to have a separate Employer Representative so that we have two contacts within the organization. *(Last updated 7/12/24)*

I’m the person submitting the employer application. What should I do before submitting it?

- Review the SPPE [Program Rules](#), especially Section 2 (Qualifications of Program Participants), Section 4 (Professional Liability Coverage), Section 5 (Roles and Duties of Program Participants), and Section 6 (Program Requirements).
- Identify the applicant for a Provisional License that your organization will supervise in the program.
- Identify an attorney in your organization who qualifies to serve as a Supervising Attorney and who has agreed to serve in that role.
- Draft a short job description for the work that the Provisional Licensee will do if accepted into the program. You will submit that job description as part of your application.
- Review Sections 2 (Employer Compliance) and 4 (Employer Declarations) of the application. Make sure that you have the information and commitments to respond to the questions and statements in those sections.
- Understand that by submitting the application, you are binding your organization to the commitments in the application.

(Last updated 7/12/24)

When should the applicant for a Provisional License submit their application?

Once the applications for the Supervising Attorney and Employer are processed, the SPPE Applicant will receive a link to apply in their email. It takes the Admissions

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Department 2-3 weeks to process the Supervising Attorney and Employer applications.
(Last updated 7/12/24)

How can an employer pay the Provisional Licensee Application Fee on the Provisional Licensee's behalf?

Once the applicant receives a registration link to apply, the employer should send an email to admissions@osbar.org with the subject line "Need Assistance with Employer paying SPPE Application Fee." An Admissions staff member will contact the employer to collect the required funds for the applicant, which will then allow the applicant to submit their application for the SPPE. The Admissions Department is unable to process these requests until after the applicant receives a registration link. *(Last updated 7/12/24)*

Who is the "SPPE Applicant" on the Supervising Attorney application form?

The applicant is the person seeking bar admission through the SPPE program. *(Last updated 7/12/24)*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

COMPENSATION AND OTHER EMPLOYMENT TERMS

Must I compensate a Provisional Licensee?

SPPE Rule 2.2(C)-(D) requires employers to employ Provisional Licensees for at least 20 hours of legal work per week and to provide “at least the salary and benefits provided to other recent law school graduates.” SPPE Rule 2.3 provides a limited exception for (a) Provisional Licensees who hold a grant or stipend compensating them for their work, and (b) Provisional Licensees who provide pro bono services for clients who are not billed for that work. This section addresses those provisions and other questions about terms of employment. *(Last updated 7/12/24)*

Should a Provisional Licensee’s compensation requirements be based on the first-year attorney salaries in the region, or in the state?

The language of SPPE Rule 2.2(D) implies that the employer should first look to their own organization for guidance, paying a Provisional Licensee the same salary and benefits they pay other recent law graduates. The rule does not distinguish between recent graduates who are licensed and those who are not. Provisional Licensees are more akin to licensed graduates than unlicensed ones: the provisional license allows them to engage in the practice of law under supervision. Employers, therefore, should pay Provisional Licensees *at least* what they pay unlicensed law graduates, and should strongly consider giving Provisional Licensees the same salary and benefits they offer to newly licensed lawyers.

If an employer does not traditionally hire recent law school graduates, then they should look to the marketplace for guidance on the salary and benefits to be given a Provisional Licensee. This is a nuanced analysis that includes the cost of living in the employer’s region, the Provisional Licensee’s practice area, the employer’s size, and the nature of the employer’s organization. *(Last updated 7/12/24)*

Can employers compensate the Provisional Licensee at a clerkship or paralegal rate if the Provisional Licensee agrees?

The compensation must be “at least the salary and benefits provided to other recent law school graduates.” SPPE Rule 2.2(D). If your organization compensates workers in that category at “clerkship” or paralegal rates (or, if your organization doesn’t hire other recent law school graduates, and other employers in the market compensate workers at “clerkship” rates), then the same rate could be paid to the Provisional Licensee. But if, as seems likely, a law school graduate would command a higher rate, then the employer must pay that higher rate. The Provisional Licensee and employer cannot agree to waive this requirement. *(Last updated 7/12/24)*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

Can all a Provisional Licensee's hours be volunteer hours?

Yes, but only if the criteria in SPPE Rule 2.3 are met. In other words, the Provisional Licensee must have a grant or stipend (such as one from their law school) compensating them for the work, or the work must be provided pro bono to the client without the employer billing for the work. Even when these criteria are met, we encourage employers to compensate Provisional Licensees given the significant value those workers will provide to the employer and clients. *(Last updated 7/12/24)*

Must our organization commit to employing the Provisional Licensee until they complete the SPPE program?

No. Neither the employer nor the Provisional Licensee need commit to a specific term of employment. If a Provisional Licensee's workplace performance is unsatisfactory, an employer may dismiss them before they have finished the SPPE pathway. Similarly, if a Provisional Licensee finds their employment unsuitable, they may seek a new employer and Supervising Attorney. The parties may also negotiate on whether to maintain employment after the Provisional Licensee has completed the pathway or to terminate employment at that time. *(Last updated 7/12/24)*

Does our organization have to provide an office and equipment to the Provisional Licensee?

SPPE Rule 5.2(C) requires employers to provide "appropriate workspace, tools, and technology to accomplish the tasks assigned by the Supervising Attorney." Under some circumstances, a Provisional Licensee may be able to accomplish these tasks while working remotely with their own equipment. Employers and Supervising Attorneys, however, should ensure that the arrangement fosters sufficient supervision and professional development for the Provisional Licensee. In general, employers should provide the same support to Provisional Licensees that they offer to newly licensed attorneys. *(Last updated 7/12/24)*

Can a Provisional Licensee work remotely within Oregon?

Yes, but the Provisional Licensee and Supervising Attorney should ensure that the Supervising Attorney is able to adequately maintain their supervisory responsibilities. *(Last updated 7/12/24)*

Do we have to provide accommodations to Provisional Licensees who live with disabilities?

Yes. Provisional Licensees are employees entitled to the same legal protections and respect as other employees. [AskJan](#) is a useful resource for identifying reasonable accommodations for common disabilities. You can review possible accommodations based on the type of disability, the work function, limitation, etc. The Admissions

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Department does not endorse recommendations from AskJan, and cannot advise employers on appropriate accommodations, but the site offers a useful starting point for employers and Provisional Licensees. *(Last updated 7/12/24)*

Should we include Provisional Licensees in workplace training sessions?

Yes. SPPE Rule 5.2 requires employers to “[i]nclude Provisional Licensees in any training programs or other educational activities provided to other new lawyers working for the Employer,” and to “compensate the Provisional Licensee for time spent in [those programs] to the same extent that other new lawyers are compensated for that time.” Including Provisional Licensees in training sessions will benefit them and your clients. *(Last updated 7/12/24)*

RECEIVING A CERTIFICATE OF ELIGIBILITY

What is the difference between the Certificate of Eligibility and the Provisional License?

The Certificate of Eligibility evidences that the applicant qualifies for the SPPE program, qualifies for admission under RFA 3.05, and has passed the character and fitness review necessary to become a Provisional Licensee in Oregon. The Certificate of Eligibility does not grant the applicant a Provisional License to practice law.

The Certificate of Eligibility is an administrative step in the process of obtaining a Provisional License. When the applicant receives a Certificate, the Admissions Department will give the applicant, Supervising Attorney, and employer instructions on completing a few administrative tasks before the applicant is issued a Provisional License with a provisional license number.

A Provisional License allows the licensee to engage in many lawyering tasks under supervision. Provisional Licensees are subject to the same restrictions as students or recent graduates who hold Certified Law Student Licenses. More information about the scope of a Provisional License is detailed in the section on Supervision and Permitted Work. *(Last updated 7/12/24)*

What does the Admission Department need to issue a Certificate of Eligibility?

To issue a Certificate of Eligibility, the Admissions Department must determine that the applicant qualifies for admission under RFA 3.05 and passes the character and fitness review necessary to become a Provisional Licensee in Oregon.

To determine that an applicant qualifies for admission under RFA 3.05, the Admissions Department must receive a copy of the applicant's Graduation Certificate from their law school. If their law school registrar is slow to respond, or if they have an outstanding graduation requirement, that will delay issuance of your Certificate of Eligibility.

If the applicant graduated from a domestic non-ABA-accredited law school, they must also submit proof of licensure in another jurisdiction. If they graduated from a law school in a foreign jurisdiction, they must submit proof of licensure in another jurisdiction, proof of degree equivalency, and a copy of the Graduation Certificate from their law school.

To conduct the necessary character and fitness review, the Admissions Department must receive sufficient responses from an applicant's references that they can make an informed decision about their character and fitness for a Provisional License. If the applicant's references are slow to respond, or if the Admissions Department requires

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supplemental information, that will delay issuance of their Certificate of Eligibility. *(Last updated 7/12/24)*

Does the applicant need to have taken all the SPPE-required courses to receive a Certificate of Eligibility?

No. The applicant must have completed all SPPE-required courses before they are admitted to the Bar at the end of the program, but they are eligible for a Certificate of Eligibility before they complete the course requirements.

Can an applicant be issued a Certificate of Eligibility if the Admissions Department places them on a Character and Fitness hold?

No. The Department cannot issue a Certificate of Eligibility until the Board of Bar Examiners determines that the applicant has the moral character and fitness required to hold a Provisional License. Under some circumstances, the Board may issue a Certificate of Eligibility conditioned on specific probationary terms. *(Last updated 7/12/24)*

My applicant has received a Certificate of Eligibility. What needs to happen so that they can be issued a Provisional License?

Before the Admissions Department can issue the applicant a Provisional License, it must confirm that 1) the applicant has professional liability coverage through the Oregon State Bar Professional Liability Fund (PLF) or is exempt from that requirement, 2) the applicant has begun or will soon begin working for you as an employer, 3) the Supervising Attorney has begun or will soon begin supervising the applicant, and 4) the applicant has signed an Oath of a Provisional Licensee.

The Admissions Department will notify PLF that the applicant has been issued a Certificate of Eligibility. PLF will contact the applicant within 48 hours with instructions on how to establish coverage or exemption status. The process for establishing coverage or exemption process will be the same as for any other OSB member. Employers must pay premiums and other expenses for this coverage to the same extent that they pay those expenses for any other new lawyer they employ. SPPE Rule 4.1. PLF will notify the Admissions Department when the applicant has established coverage or exemption status.

The Admissions Department will also notify the applicant's Supervising Attorney and employer when the applicant receives a Certificate of Eligibility. The Supervising Attorney will be asked to identify the date they began or will begin supervising the applicant. The employer will be asked to identify the first day the applicant started or will start work.

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

Once the Admissions Department has received 1) notice from PLF that the applicant has established coverage or exemption status, 2) a response from the employer with the applicant's start date, 3) a response from the Supervising Attorney with the supervision start date, and 4) the applicant's Oath of a Provisional Licensee, then the Admissions Department will promptly issue a Provisional License. *(Last updated 7/12/24)*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

RECEIVING A PROVISIONAL LICENSE

When will the applicant receive a Provisional License?

Issuing a Provisional License will take at least a month, and in some cases several months, after the applicant submits their application. Before issuing a Provisional License, the Admissions Department must complete a character and fitness review—and the Board of Bar Examiners must determine that the applicant has the good moral character and fitness to practice law prescribed by ORS 9.220(2). The speed of that process depends on the completeness and content of information the applicant provides, but always takes several weeks.

If the Board determines that the applicant has the necessary moral character and fitness, it will issue a Certificate of Eligibility to the applicant. The Admissions Department will notify the applicant, employer, and Supervising Attorney that the Certificate has been issued. That notification will explain the brief steps that the applicant, employer, and Supervising Attorney must take to support issuance of a license. For more information on those steps, see the section on “Receiving a Certificate of Eligibility.” *(Last updated 7/12/24)*

The applicant has now started work at our organization. How should I confirm that with the Admissions Department so that the applicant can receive a Provisional License?

Both the employer and Supervising Attorney should respond to the messages they receive from the Admissions Department with the notice of a Certificate of Eligibility. Those message will ask them to provide the dates that the applicant began or will begin work, and to confirm the Supervising Attorney’s supervision. Once the Admissions Department receives those confirmations, as well as confirmation of the applicant’s required liability coverage (or exemption from that requirement) and the Oath of a Provisional Licensee, the Admissions Department will send the applicant a Provisional License letter, which will include their Provisional License number. *(Last updated 7/12/24)*

SUPERVISION AND PERMITTED WORK

Can a Supervising Attorney supervise more than one Provisional Licensee?

There is no rule against this, but the Supervising Attorney should be certain that they will be able to fulfill the supervisory responsibilities and program requirements for more than one Provisional Licensee. We do not recommend a single Supervising Attorney supervise more than two Provisional Licensees. *(Last updated 7/12/24)*

SPPE Rule 5.4 allows a Supervising Attorney to delegate responsibility to another attorney with the same employer. Must a delegated attorney independently meet the Supervising Attorney requirements?

No. An attorney holding delegated responsibility does not need to meet the Supervising Attorney Requirements. Under SPPE Rule 5.4, the attorney holding delegated responsibility must (A) [be] an active member of the Oregon State Bar; and (B) Ha[ve] the knowledge and skills to supervise the Provisional Licensee effectively. *(Last updated 7/12/24)*

Can the Supervising Attorney delegate supervisory responsibilities to an attorney with another firm so that the Provisional Licensee can get different experience?

No. Under SPPE Rule 5.4, the Supervising Attorney and attorney with delegated responsibility must have the same employer. SPPE Rule 5.5 allows a Provisional Licensee to work for two different Supervising Attorneys with different employers, but both Supervising Attorneys and employers must independently qualify under the SPPE rules and must each apply for the program. Those Supervising Attorneys and employers must also coordinate their supervision of the Provisional Licensee (SPPE Rule 5.5(A)(1)) and follow the conflict-of-interest screening provisions described in SPPE Rule 5.5(A)(2). *(Last updated 7/12/24)*

What kind of work can the applicant do before they receive a Provisional License?

Before receiving their Provisional License, the applicant is in the same position as any law graduate who has not yet received a license. Many organizations call someone in that position a law clerk. Whatever their title, they cannot do work that would constitute the practice of law until they receive their Provisional License.

Except, of course, if they still have an active Certified Law Student license. Then the applicant can engage in any of the activities allowed by that license—which has the same scope as the Provisional License they will receive.

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Except, of course, if they still have an active Certified Law Student license. Then the applicant can engage in any of the activities allowed by that license—which has the same scope as the Provisional License they will receive. *(Last updated 7/12/24)*

Once the applicant receives a provisional license, what kind of work can they do and how much supervision is required?

Provisional Licensees are subject to the same restrictions as students or recent graduates who hold Certified Law Student Licenses. Those rules are available on the [SPPE website](#).

The Provisional Licensee’s work depends on their abilities, the Supervising Attorney’s permission, and the client’s needs. Supervising Attorneys “assume personal professional responsibility for the [Provisional Licensee]’s guidance in any work undertaken and for supervising the quality of the [Provisional Licensee]’s work.” RFA 13.30. This is a higher degree of responsibility than the one imposed by Oregon Rule of Professional Conduct 5.5, which governs the responsibility of a licensed lawyer who supervises another fully licensed lawyer.

RFA 13.30 also makes clear that the Supervising Attorney “shall assist the [Provisional Licensee]’s analysis, preparation and performance to the extent the supervising attorney considers appropriate, giving at all times consideration to the interests of the client.”

With the Supervising Attorney’s consent and supervision, Provisional Licensees can engage in a wide range of lawyering tasks, including “preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear”¹; preparation of briefs, abstracts, and other documents for appellate courts; taking depositions; drafting contracts and other transactional documents; conducting client intake; and negotiating. RFA 13.15. These and other activities mentioned in the rule are illustrative, not exclusive.

If the Supervising Attorney consents, the Provisional Licensee can engage in these activities outside the Supervising Attorney’s presence. The Supervising Attorney, however, must continue to exert general supervision over the Provisional Licensee’s work. Note, moreover, that RFA 13.15(1)(c) imposes some special restrictions on work for indigent inmates seeking post-conviction relief. *(Last updated 7/12/24)*

Are Provisional Licensees allowed to sign briefs and other documents? If so, does the Supervising Attorney have to co-sign?

The Supervising Attorney must sign all pleadings and other documents filed in any matter, RFA 13.15(1)(a), including those filed in appellate courts. RFA 13.15(1)(b).

¹ Eligibility for court appearances is discussed in another FAQ.

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Documents filed in connection with post-conviction proceedings must be signed by the attorney of record. RFA 13.15.(1)(c). All these documents and pleadings “must contain the name” of the Provisional Licensee who participated in drafting the document. RFA 13.15(2). If the Provisional Licensee participated in drafting only a portion of the document or pleading, “that fact may be mentioned.” Id.

Other documents (i.e., those prepared for non-litigation matters) “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.” RFA 13.15(3). *(Last updated 7/12/24)*

In addition to reviewing and signing documents, does a Supervising Attorney have to document a Provisional Licensee’s work in any way?

Yes. RFA 13.15(3) provides that when Provisional Licensees participate in non-litigation activities outside the Supervising Attorney’s presence and the 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.” *(Last updated 7/12/24)*

If the Supervising Attorney is present at counsel table, may the Provisional Licensee appear in court or before an administrative tribunal?

Yes, under these conditions:

- The Supervising Attorney consents—which indicates that they believe the Provisional Licensee is competent to appear.
- The judge or presiding officer consents.
- The Supervising Attorney explains the situation to the client.
- The client consents in writing.
- That consent is filed with the court and becomes part of the record. FRA 13.10.

If the client is the state or another governmental agency, then the supervising attorney for that unit files a written consent. In this case, the Supervising Attorney does not need to explain the situation to the client.

Provisional Licensees are authorized to appear before judges and other presiding officers who consent, but they are not entitled to those appearances. The Provisional Licensee’s appearance is always subject to the judge or presiding officer’s discretion. *(Last updated 7/12/24)*

When can a Provisional Licensee appear in court without a Supervising Attorney?

These appearances always require the Supervising Attorney’s consent: the Supervising Attorney determines whether a Provisional Licensee is ready to appear in court on their

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own. The rules impose additional constraints, depending on the type of client and matter.

If the client is the state, state agency, or another government body, then the Provisional Licensee can appear in court without their Supervising Attorney if all the following conditions are met:

- The Supervising Attorney consents;
- The state agency or governing body’s supervising attorney consents in writing;
- That consent is filed with the court and is part of the record;
- The judge or presiding officer consents, either orally or in writing.

If the client is not a government body, then the Provisional Licensee can appear in court without their Supervising Attorney if all the following conditions are met:

- The Supervising Attorney consents.
- The judge or presiding officer consents.
- The Supervising Attorney explains to the client that the Provisional Licensee will appear on their own.
- The client consents in writing.
- That consent is filed with the court and becomes part of the record.
- The matter is not “high stakes” under RFA 13.10(4).

(Last updated 7/12/24)

What is a “high stakes” matter?

There are four categories of “high stakes” matters defined by RFA 13.10(4):

- Any criminal case in which the defendant may be subject to a felony conviction;
- Any juvenile case where the act committed by the juvenile if committed by an adult would have been considered a felony;
- Any commitment proceeding;
- Any oral argument in an appellate court.

For these matters, a Provisional Licensee may not appear on their own unless the client is the state, a state agency, or another governmental body. Provisional Licensees who represent other clients may appear in these matters, but only with the Supervising Attorney at counsel table. *(Last updated 7/12/24)*

Do these rules govern work on federal matters and appearances before federal courts or agencies in Oregon?

Yes, as long as the Supervising Attorney is authorized to do that work. For a Provisional Licensee to appear before a federal court or agency in Oregon, the Supervising Attorney

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must be admitted to appear before that court or agency—and the Provisional Licensee and Attorney must follow the above rules about appearances. *(Last updated 7/12/24)*

**Can Provisional Licensees appear without a Supervising Attorney for arraignments?
What will client consent look like in this situation?**

This situation follows RFA 13.10(4) on when a Provisional Licensee can appear unsupervised in court (see above). The Provisional Licensee must obtain written client consent to represent the client in court.

If the Provisional Licensee cannot secure the client’s consent earlier than the initial court appearance, then a fully licensed attorney should also be present at the arraignment. The fully licensed attorney should be ready and willing to represent the client if the client does not consent to being represented by the Provisional Licensee. *(Last Updated [])*

Can a Supervising Attorney delegate consenting to the Provisional Licensee’s unsupervised court appearance?

Yes, this is a task that a Supervising Attorney can delegate to another Oregon licensed attorney in the office who has the knowledge and skill necessary to supervise the Provisional Licensee. SPPE Rule 5.4. *(Last Updated {})*

TRAINING REQUIREMENTS

The SPPE Rules require Supervising Attorneys to complete training on program requirements, successful supervision, and constructive feedback. What will that training look like?

SPPE Rule 14.2 imposes that requirement. We are preparing that training as a series of short video modules that Supervising Attorneys can watch at their convenience. The training modules will be posted on the SPPE website. Provisional Licensees will watch many of the same modules as part of their training requirement. Once all the training modules have been recorded and posted, the Admissions Department will share an MCLE credit number for this training. *(Last updated 7/12/24)*

When will the training videos be available?

The first modules are on the website, and we will post additional modules regularly. We hope to have the full series posted by early July. *(Last updated 7/12/24)*

The SPPE Rules require Supervising Attorneys to attend at least two hours of training related to issues of diversity, equity, and inclusion that may arise in the SPPE program. What form will that training take and when will it be available?

We currently plan to provide video training on these issues. As with the other training modules, you will be able to view them at your convenience and claim MCLE credit. Videos should be available by early July. *(Last updated 7/12/24)*

Will I receive MCLE credit for these training sessions?

Yes, you will be able to claim MCLE credit for all training sessions. In addition to preparing you to work with the SPPE program, we believe these training sessions will enhance your practice. *(Last updated 7/12/24)*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

HOURS AND TIMESHEET

What role do Supervising Attorneys play with respect to timesheets?

Supervising Attorneys must sign each the timesheet each week, confirming that to the best of their knowledge, the Provisional Licensee completed the hours logged on the timesheet. When doing that, Supervising Attorneys should check to be sure that the Provisional Licensee has not inadvertently revealed client names or other identifying information. Supervising Attorneys may sign timesheets digitally by following the instructions on the template. For weeks with dates that span two months, the Supervising Attorney must sign off on both months. For example, for the week of July 29, 2024-August 2, 2024, the Supervising Attorney must sign off on the week on the July page and the August page. *(Last updated 7/12/24)*

Our applicant is already working for our organization. Can they start counting hours and compiling portfolio items before they apply to the program?

No. Applicants may not begin counting hours or compiling portfolio items until they have submitted their application. At that point, they may begin counting hours and compiling work that will count towards the program—but they may not undertake any activities that require a license to practice law, unless they still hold an active Certified Student License allowing those activities. Please be sure that you and the applicant follow this restriction. *(Last updated 7/12/24)*

May an applicant begin counting hours before they receive their Provisional License?

Yes. Provisional Licensees may begin counting time devoted to legal work and program activities as soon as they submit their application for the program. SPPE Rule 3.5(D). Note, however, that a Provisional Licensee's legal work may be limited during this waiting period. Unless the Provisional Licensee holds an active Certified Student License, they may not engage in any legal work that constitute the practice of law. They may only engage in work that unlicensed law school graduates perform. *(Last updated 7/12/24)*

Is there any limit on the number of hours that a Provisional Licensee may log each week?

Yes. Provisional licensees may count only 40 hours of legal work each week, and they may not carry forward excess hours to subsequent weeks. SPPE Rule 6.12(A). Provisional Licensees, however, may count additional hours devoted to program activities or employer-mandated training if those activities or training do not constitute legal work. The timesheet provided on the website will account for this when it calculates the total hours that count toward the program each week.

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If a Provisional Licensee logs more than 12 hours of work in a day, the timesheet will note that working more than 12 hours in a day is a bad model for the long-term health of attorneys. The State Bar recommends that Provisional Licensees work no more than 12 hours in a single day, but the timesheet does not prevent greater entries. *(Last updated 7/12/24)*

Should I continue to sign off on timesheets after the Provisional Licensee completes the required 675 hours?

Yes. The Admissions Department requires applicants to track their hours for the program's entire duration. This data is important for program evaluation, which is required by the Oregon Supreme Court and will benefit future SPPE participants. As a result, Supervising Attorneys should continue to sign off on timesheets to confirm that the timesheets are accurate to the best of their knowledge and do not include information that could identify a client or matter. *(Last updated 7/12/24)*

What is legal work?

Legal work is “work that is commonly performed by licensed attorneys in Oregon.” Legal work may also “include activities that are also performed by unlicensed individuals, as long as newly licensed attorneys working for the employer regularly incorporate those activities in their work.” SPPE Rule 1.2(K). While waiting to receive their Provisional Licenses, applicants may engage in the types of legal work that unlicensed law graduates perform.

Legal work is not the same as billable work. The Provisional Licensee may count time appropriately spent doing legal work, even if they did not bill a client for the work. *(Last updated 7/12/24)*

Are Provisional Licensees allowed to count any hours apart from legal work?

Yes, Provisional Licensees may also count (a) time devoted to SPPE program activities, and (b) time spent in any training or educational activities required by their employer, to the extent those activities are not already counted as legal work. SPPE Rule 6.12(B)-(C). These hours are not subject to the 40-hour weekly cap. *(Last updated 7/12/24)*

How do program activities differ from legal work?

Most of the work that Provisional Licensees perform will be legal work, i.e., work assigned to them by their Supervising Attorney. “Program activities” are limited to work required by the program that a Provisional Licensee would not otherwise perform. If, for example, a Provisional Licensee drafts a memo for their Supervising Attorney, that is legal work subject to the 40-hour cap. The additional time that a Provisional Licensee spends redacting the memo for submission, preparing the cover sheet for that

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submission, and reviewing any feedback received from BBX graders counts as “program activities.”

Time devoted to preparing a learning plan; studying for and taking the MPRE (or preparing journal entries related to professional responsibility and professionalism); engaging in up to 10 hours of activities related to diversity, equity, inclusion, or access to justice; watching the MCLE programs required by SPPE Rule 6.9; preparing SPPE timesheets; or submitting portfolio materials also counts as time spent on “program activities.” *(Last updated 7/12/24)*

How often should Provisional Licensees submit timesheets to the Admissions Department?

Provisional Licensees must submit their monthly timesheets by the tenth of the following month. Supervising Attorneys should make sure to sign these timesheets each week, as required by SPPE Rule 6.10. *(Last updated 7/12/24)*

How do SPPE timesheets differ from timekeeping required by an employer?

Employers vary in timekeeping requirements. When completing SPPE timesheets, Provisional Licensees should follow the SPPE requirements rather than any rules established by their employer. **Most importantly**, Provisional Licensees should not name any matters, clients, or other individuals on SPPE timesheets. If a Provisional Licensee keeps timekeeping records for their employer, they should be sure to eliminate that identifying information when transferring hours to the SPPE timesheet. *(Last updated 7/12/24)*

Do Provisional Licensees have to record start and finish times for each task?

No. They only need to record the total time devoted to the task, rounding to the quarter hour. *(Last updated 7/12/24)*

How detailed should timesheet entries be?

Entries should be detailed enough to give the Admissions Department a sense of the work that the Provisional Licensee is doing, but they do not have to be as detailed as billing records for private clients. Provisional Licensees may group together related tasks on the timesheet. If a Provisional Licensee devotes 3 hours to client intake, for example, they can make a single entry for those 3 hours. There’s no need to break out the interviews with different clients. Similarly, a Provisional Licensee may record the total time spent drafting a motion or reviewing a contract without breaking the time into discrete segments such as research, writing, and proofreading.

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Provisional Licensees, however, may not enter any block of time longer than 5 hours. For longer blocks, they must divide the time into shorter blocks reflecting the tasks they performed during those blocks.

If the Admissions Department staff believe that a Provisional Licensee should provide more detail in their timesheets, they will notify the Provisional Licensee. *(Last updated 7/12/24)*

Is it okay to use abbreviations for timesheet entries?

Yes, but Provisional Licensees should note those abbreviations in the box at the side of the timesheet. *(Last updated 7/12/24)*

WRITTEN WORK PRODUCT

What role do Supervising Attorneys play with respect to written work product?

For each written work product that a Provisional Licensee submits, the Supervising Attorney (or their delegate) must complete a short form. The person completing that form attests that:

- The legal analysis in the work product is, to the best of their knowledge, accurate;
- The work product sufficiently reflects the knowledge/research, analysis, and writing of the Provisional Licensee that the Board of Bar Examiners can meaningfully assess the Provisional Licensee's competence from the work product;
- The Provisional Licensee has appropriately redacted the work product; and
- The work product was or will be used in the manner described by the Provisional Licensee.

On the same form, the Supervising Attorney or their delegate also provides information about potential conflicts of interest. The portion of the form, used to prevent even the appearance of impropriety among examiners who score the document, requires the Supervising Attorney (or their delegate) to specify any court where the document has been or may be filed, and any organization that represented adverse parties during the course of the matter.

This form is available on the SPPE website. *(Last updated 7/12/24)*

I exercised general supervision over the written work product, but I was not heavily involved. Can I still complete the attestation form?

Yes. The Provisional Licensee should be the primary author of the written work. Note that, if another attorney exercised more supervision over preparation of a document, it may be appropriate for that attorney to complete the attestation form as an attorney who has received delegated responsibility under SPPE Rule 5.4. Under either circumstance, the attorney should make their attestation based on both the Provisional Licensee's disclosures and their independent knowledge of the Provisional Licensee's work. *(Last updated 7/12/24)*

What types of written work should the Provisional Licensee submit?

Provisional Licensees may submit any written work that addresses a substantive aspect of a legal matter and reaches a prediction, conclusion, or recommendation related to a legal issue. Writings may take the form of any type of work product generally used in law practice. This includes memoranda, correspondence, pleadings, motions, briefs, contracts, wills, legal or statutory analysis articles, white papers, mediation

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statements, and memos to the file. Those examples are simply illustrative. The SPPE aims to include any type of written legal analysis used in law practice.

However, written work projects that require the Provisional Licensee to make only minor changes (such as changing the names and dates on a form) are not appropriate for submission. *(Last updated 7/12/24)*

Can the Provisional Licensee submit a writing based on a form or template?

Yes. The SPPE program refers to underlying forms or templates as “foundation documents.” When a Provisional Licensee submits a writing for review, they will indicate whether the writing is based on a foundation document. If it is, they will submit the foundation document as well as the writing based on that foundation, and they will highlight the portions of the writing that represent additions or other customization. *(Last updated 7/12/24)*

May Provisional Licensees use AI when preparing a document?

Yes. The SPPE allows Provisional Licensees to use any resources available to practicing lawyers. Provisional Licensees, of course, should ensure that they use AI ethically and do not disclose confidential client information. If the Provisional Licensee uses an AI generated draft as the basis for their writing, they will submit that draft as a foundation document and will follow the same rules that apply to use of forms or templates as foundation documents. Provisional Licensees will also note on their cover sheet that they used AI in their work. *(Last updated 7/12/24)*

Is there a minimum word count?

Three of the writings scored as qualified must include at least 1500 words, not including headers or signature blocks (but including footnotes and citations). If the document is based on a foundation document, then only the added or customized words count. There is no minimum word count for the other five writings, but each must be long enough to meet the requirements listed in SPPE Rule 6.4 and summarized in this FAQ. *(Last updated 7/12/24)*

What other requirements apply to written work product?

In addition to the requirements noted above, each piece of work product must constitute a separate piece of work. A Provisional Licensee cannot take a memo or brief, for example, and submit each section as a separate writing. However, if the Provisional Licensee collaborated with other attorneys on a longer document and worked on only a portion of it, they should submit only the portion they worked on.

Each writing must also address at least one legal issue that differs from the legal issues addressed in other submitted writings. If a Provisional Licensee prepares letters to numerous clients advising each of them on the same legal issue, changing only the

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facts, they should submit just one of those letters. The same subject area, however, may give rise to many different legal issues. A litigator, for example, could submit eight writings that each address a different evidence issue. A prosecutor or criminal defense lawyer could submit writings that address different Fourth Amendment issues.

Provisional Licensees, finally, must obtain the client's consent before submitting a document related to a client matter. When requesting consent, the Provisional Licensee should explain to the client the many ways in which their identity and interests will be protected. See the FAQs below on redaction and other measures to protect client interests.

Supervising Attorneys should try to provide Provisional Licensees with assignments that allow the Provisional Licensee to meet these and other requirements related to writings. *(Last updated 7/12/24)*

Does a client have to consent in writing to submission of a document related to their matter?

No, oral consent is sufficient. It is good practice, however, to document that consent with a note to the file. For your convenience, the Admissions Department published a "Client Consent" form on the SPPE website. Use of this form, however, is not required. *(Last updated 7/12/24)*

Does the Provisional Licensee need client consent if they submit a document that has been filed publicly?

Yes, the Board of Bar Examiners determined that consent should be obtained before submitting any document related to a client matter. This shows appropriate respect for the client's interests. *(Last updated 7/12/24)*

Can the Provisional Licensee consult other lawyers or accept their editing suggestions for writings that they Provisional Licensee submits?

Yes. The SPPE program recognizes the benefits of collaboration in law practice. The program requires only that the writing "sufficiently reflects the knowledge/research, analysis, and writing of the Provisional Licensee that the Board can meaningfully assess the Provisional Licensee's competence from the work product." Provisional Licensees will complete a cover sheet indicating the types of assistance they received and, based on review of that cover sheet and their independent knowledge, the Supervising Attorney will attest whether the writing meets that standard. If the Supervising Attorney cannot make that attestation, the Provisional Licensee will need to submit a different writing that does meet the standard. *(Last updated 7/12/24)*

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How can I protect attorney-client privilege when my Provisional Licensee submits written work?

The Provisional Licensee must redact all written work to protect their identity, your identity, the employer's identity, and the identity of the client and matter. The Supervising Attorney will review those redactions and attest that they are appropriate. We will provide a handout and training video to guide you and your Provisional Licensee on best practices for this redaction.

To create another level of protection, you will provide conflict information enabling BBX to shield graders from seeing work product related to a matter in which the grader's organization represents an adverse party (or, for graders who are judges, work product related to a matter that has been or may be filed in their court).

Finally, writings submitted by the Provisional Licensee will not be shared outside BBX or the Admissions Department. *(Last updated 7/12/24)*

What kind of information should the Provisional Licensee redact?

The Provisional Licensee should redact any information that identifies an individual or most organizations, phone numbers or addresses, and most place names. They should also redact any other information that would disclose confidential information. *(Last updated 7/12/24)*

Should the Provisional Licensee redact words and numbers by blacking them out?

No. Blacking out words or numbers makes the document difficult for graders to understand and assess fairly. Instead, the Provisional Licensee should use generic words in brackets to replace redacted information. For example, if the document reads "Mx. Jones worked at Local Lion Elementary School for 10 years," they would redact the document to read "[The Plaintiff-Employee] worked at [the Defendant-Employer's elementary school] for 10 years." Similarly, they could redact the phrase "Our client, Jiang Lu, lived at 430 Forrest Place" to read "Our client, [name], lived at [address]. Watch the training video on redaction for more examples. *(Last updated 7/12/24)*

Should the Provisional Licensee redact whole sentences or paragraphs?

Only if that is necessary to protect confidential information. If the Provisional Licensee must redact full sentences and paragraphs, however, the document may not be suitable for grading. Provisional Licensees should first try to redact words within the sentences and paragraphs, as explained above. If they must redact full sentences or paragraphs, they should include a bracketed note describing in general terms what has been redacted. E.g. [Redacted paragraph includes the client's trade secrets, which are not necessary to follow the legal analysis.] If the redacted information is important for

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the grader to understand the Provisional Licensee's analysis, the Provisional Licensee should choose a different document for submission. *(Last updated 7/12/24)*

Our practice doesn't produce the type of writings required by the SPPE program. What should we do?

Supervising Attorneys should first work with Provisional Licensees to identify opportunities to produce suitable writings. As the Provisional Licensee gains experience, they may be able to take on responsibilities that will produce those writings. If not, the Supervising Attorney and Provisional Licensee should work together to develop writings that will satisfy SPPE requirements. Provisional Licensees, for example, may be able to expand the analysis in a practice document to make it suitable for submission. The SPPE is based in practice but submitted writings do not have to be identical to the ones used in practice.

A Provisional Licensee might also create a writing from oral advice they provided to a client or other attorney. Even though the Provisional Licensee provided oral advice, they could prepare a memo to the file summarizing the legal analysis and applying it to the facts of the client's case. This type of writing may not be essential for the Provisional Licensee's practice, but it will provide an efficient way for Provisional Licensees to satisfy program requirements.

Supervising Attorneys and Provisional Licensees may find other ways to create writings that further client interests. A memo to the file summarizing legal analysis of a common issue that arises in the employer's practice may prove useful in the future. A blog post or email explaining a new statute or legal issue to clients might also be advantageous.

As a last resort, Provisional Licensees may request a writing assignment from the Admissions Department's "issue bank." These assignments, however, will not mirror the Provisional Licensee's practice area and will take time away from their work for their employer and clients. It is much more advantageous for Provisional Licensees and Supervising Attorneys to develop writing assignments related to their practice than to request an assignment from the issue bank. *(Last updated 7/12/24)*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

CLIENT INTERACTIONS

What is the client interaction requirement?

Provisional Licensees who participate in the SPPE must lead at least two client interactions that are assessed by their Supervising Attorney. The interactions may take the form of a client interview, client counseling session, or (for prosecutors) discussion with a complainant. You and the Provisional Licensee will document these interactions using templates and rubrics provided by the Board of Bar Examiners (BBX). A BBX grader will score the Provisional Licensee's competence based on those submissions. The templates, rubrics, and BBX grading sheet are available on the SPPE website. *(Last updated 7/12/24)*

What role do Supervising Attorneys play with respect to the client interaction requirement?

For each client interaction that the Provisional Licensee submits, the Supervising Attorney (or their delegate) will assess the Provisional Licensee's performance based on a rubric. The rubric recognizes that client interactions take many forms and reflect diverse styles. The rubric focuses on basic requirements for those interactions that are necessary for minimum competence.

In addition to completing this rubric, the Supervising Attorney will provide information about potential conflicts of interest. This information is used to prevent even the appearance of impropriety among examiners who score the document. To satisfy this requirement, the Supervising Attorney will simply specify any court where the matter related to the client interaction has been or may be filed, and the name of any organization that represents (or has represented) an adverse party in connection with this matter.

The rubric and conflict template are available on the SPPE website. *(Last updated 7/12/24)*

What kind of comments would be useful for me to include on the rubric for BBX Graders?

If you marked any criterion as "not applicable," it is helpful to explain that rating to the graders. If too many criteria are "not applicable," then the client interaction may not be a suitable one for grading. You should also indicate why you marked any criteria as "needing improvement." Under many circumstances, those scores may counsel against submitting that negotiation to BBX: The graders may score a client interaction as "unqualified" if one or more criteria receive that rating. Under some circumstances, though, you may feel that the Provisional Licensee has demonstrated minimum competence despite receiving a low score on one or two criteria. If that's the case, you should explain your reasoning in the comments.

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In addition, it is helpful to explain any circumstances that made the client interaction particularly challenging for the Provisional Licensee. If the client was uncooperative or challenging in any other way, note that. The Provisional Licensee may have done as well as any other lawyer under those circumstances. Include any comments that you think will give BBX appropriate context for the client interaction. *(Last updated 7/12/24)*

How many client interactions must my Provisional Licensee document for BBX?

To meet the program’s requirement for client interactions, the Provisional Licensee must document two interactions that are each scored as “qualified.” A qualified score means that the client interaction meets the licensing standard of minimum competence. The Provisional Licensee may document as many interactions as they need to meet the target of two qualified interactions. If they document an interaction that a grader marks as “not qualified,” they will receive feedback indicating how their interaction fell short. *(Last updated 7/12/24)*

What types of client interactions count for this requirement?

The interaction may be a client interview or counseling session. If the Provisional Licensee works as a prosecutor, they may use a discussion with a complainant to meet this requirement. The Provisional Licensee should document a client interaction that includes substantive discussion of the client’s (or complainant’s) matter. They should also choose an interaction for which you can assess most of the criteria on the client interaction rubric. If you are compelled to check “NA” on too many criteria, the grader may find the information insufficient to assess the Provisional Licensee’s competence. *(Last updated 7/12/24)*

Do client interactions have to occur in person?

No. The interaction may occur in person, by telephone, by video, or in any other manner. The Provisional Licensee may also ask you to assess an interaction that occurred entirely in writing (such as by email or an exchange of letters). Be sure, however, that you can assess the Provisional Licensee’s *interaction* with the client. If the Provisional Licensee invites you to witness an interaction that occurs by telephone, you should be able to hear both the Provisional Licensee and the client.

Similarly, if the Provisional Licensee uses a written exchange to satisfy this requirement, that exchange must include interaction with the client. A letter in which the Provisional Licensee offers advice to the client will not satisfy this requirement unless it is part of a larger exchange that you are able to assess. *(Last updated 7/12/24)*

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I work in-house for a business or government agency, so I don't serve traditional clients. How can my Provisional Licensee satisfy this requirement?

SPPE Rule 6.5(E) provides that “Client” should be interpreted in the context of the Provisional Licensee’s practice position.” The rule acknowledges that Provisional Licensees who work for a business or government agency may serve other members of their organization who are “clients” for their legal advice. Talk with your Provisional Licensee about what kinds of interactions might satisfy this SPPE requirement. *(Last updated 7/12/24)*

We conduct client interviews using a standardized intake sheet. Will one of those interviews count towards this requirement?

Yes. Especially for initial client interviews, it is good practice to follow an intake sheet or other checklist. You can still assess your Provisional Licensee’s performance on most of the rubric criteria. Note, though, that if the Provisional Licensee’s intake interviews are limited to obtaining very basic information from the client, the interview may not provide enough substance to satisfy the program requirement. Once again, refer to the rubric that you will complete. Will the interview allow you to assess the Provisional Licensee’s competence on most of those criteria? *(Last updated 7/12/24)*

Can I work with my Provisional Licensee to prepare before interacting with the client?

Absolutely. We encourage the Provisional Licensee to gather as much advice as they need to inform the interaction. *(Last updated 7/12/24)*

What if I conduct a client interaction together with my Provisional Licensee? Will that count for this requirement?

SPPE Rule 6.5(C) requires you to attest that the Provisional Licensee “led the [interaction], with little or no assistance from the Supervising Attorney.” You or another attorney may participate in the interaction, but the Provisional Licensee should be the one leading the interaction. Remember that the Provisional Licensee doesn’t have to document their first client interactions for the SPPE, they can learn and grow until they feel comfortable taking the lead. *(Last updated 7/12/24)*

What if the Provisional Licensee is leading the client interaction but wants to ask me for input on an issue? Is that allowed?

Yes. The client’s needs are paramount so, if the Provisional Licensee needs your input to address a client question, they should request that input. After the interaction concludes, you and the Provisional Licensee can decide whether their role was sufficient that they “led” the interaction. Requesting assistance on some points does not necessarily detract from the Provisional Licensee leading the interaction. *(Last updated 7/12/24)*

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My Provisional Licensee is still learning this practice area and may not be prepared to answer all the client’s questions. How should we handle that while still allowing them to lead the interaction?

You should give your Provisional Licensee credit for admitting uncertainty rather than giving incorrect information. However, encourage your Provisional Licensee to commit to getting back to the client (and offer an estimated timeline) when they are unable to answer a question immediately. The Provisional Licensee can then research the answer or consult with you and other attorneys before returning to the client with an answer. *(Last updated 7/12/24)*

Do we need client consent for the Provisional Licensee to satisfy this requirement?

If the Provisional Licensee conducts the interaction orally (in person, by phone, or by video), then SPPE Rule 6.5(A) requires you or the Provisional Licensee to (a) explain that you are observing the interaction to provide feedback on the Provisional Licensee’s work, and (b) obtain oral consent from the client for that observation. If the client withholds consent, the Provisional Licensee must choose a different interaction to document for the SPPE.

If the interaction occurs in writing, the Provisional Licensee does not need to obtain client consent before documenting the interaction for an SPPE submission. *(Last updated 7/12/24)*

All my client interactions are confidential and privileged. Will I violate any professional duties if I allow my Provisional Licensee to document those interactions for this requirement?

No, the Provisional Licensee will be able to document these interactions while still meeting all professional responsibilities. Even if the interaction occurs in writing, the Provisional Licensee will not submit the interaction itself to BBX; they will submit only the documents they prepare and the ones prepared by you. Those documents focus on the Provisional Licensee’s competence in conducting the interaction, and do so without revealing the client’s identity, the nature of the matter, or the substance of any communications. Before submitting those documents, you and the Provisional Licensee should review them to ensure that they include no information revealing your client’s identity or disclosing confidences.

To create another level of protection, you will provide information enabling BBX to shield graders from seeing documentation related to a matter in which their organization has represented an adverse party (or, for graders who are judges, documentation related to a matter that has been or may be filed in their court).

Finally, the Provisional Licensee’s submissions will not be shared outside BBX or the Admissions Department. *(Last updated 7/12/24)*

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If BBX doesn't review the client interaction, how will they assess competence?

The rubric that graders will apply to client interactions uses an “entrustment” approach. Medical professionals have used this approach successfully to assess the competence of new doctors. The grader will review the information provided by you and your Provisional Licensee and then answer this question: Based on that review, “would you allow the Provisional Licensee to conduct an unsupervised [client interview/counseling session/discussion with complainant] in their practice area?” If the grader answers “yes,” then the client interaction is marked “qualified.” A “no” answer means that the interaction is not qualified. *(Last updated 7/12/24)*

I am too busy to observe my Provisional Licensee conduct a client interaction. How should I handle that?

SPPE Rule 5.4 allows Supervising Attorneys to delegate some of their duties—including the assessment of client interactions—to another employee working for the same employer if: (a) that employee is an active member of the Oregon State Bar, and (b) the employee has the knowledge and skills to supervise the Provisional Licensee effectively. *(Last updated 7/12/24)*

We interact with clients who are minors, live with mental illnesses, or present other special challenges. Will my Provisional Licensee be able to demonstrate minimum competence in those situations?

Yes. You should take those circumstances and unique challenges into account when assessing the Provisional Licensee’s interactions. The rubric includes a section for “comments” in which you can note those circumstances if necessary. The Provisional Licensee will also have an opportunity to discuss those circumstances in their cover sheet. The notes and discussion from you and the Provisional Licensee, of course, must protect the client’s identity and other details about their matter. *(Last updated 7/12/24)*

I do not interact with clients in the regular course of my legal work. How can I help my Provisional Licensee satisfy this requirement?

You should consider whether there are creative ways to meet this requirement within your workplace. It may be possible for the Provisional Licensee to participate in client interactions related to other matters handled by your organization. Alternatively, under your supervision, the Provisional Licensee may be able to take on a pro bono matter that is likely to give them an opportunity to demonstrate their client interaction skills.

If these options are not feasible, the Provisional Licensee will be able to participate in simulated client interactions arranged by the Admissions Department. Note, however, that these simulations will be available only at limited times and places; they will not be

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available on demand. It will be most convenient for the Provisional Licensee if they can find a way to satisfy this requirement within your workplace. *(Last updated 7/12/24)*

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NEGOTIATIONS

What is the negotiation requirement?

Provisional Licensees who participate in the SPPE must lead at least two negotiations that are assessed by their Supervising Attorney. The Provisional Licensee and Supervising Attorney (or their delegate) will document those negotiations using templates and rubrics provided by the Board of Bar Examiners (BBX). A BBX Grader will score the Provisional Licensee's competence based on those submissions. The templates, rubrics, and BBX grading sheet are available on the SPPE website. *(Last updated 7/12/24)*

What role do Supervising Attorneys play with respect to the negotiation requirement?

For each negotiation, the Supervising Attorney (or their delegate) must assess the Provisional Licensee's performance based on a rubric. The rubric covers pre-negotiation preparation as well as the negotiation. The rubric focuses on basic elements of competent negotiation; it does not favor any particular negotiation style.

The Supervising Attorney will also provide information about potential conflicts of interest. This information is used to prevent even the appearance of impropriety among examiners who score the document. To satisfy this requirement, the Supervising Attorney will simply specify any court where the matter related to the negotiation has been or may be filed, and the name of any organization that represents (or has represented) an adverse party in connection with the matter.

The rubric and conflict template are available on the SPPE website. *(Last updated 7/12/24)*

What kind of comments would be useful for me to include on the negotiation rubric submitted to BBX Graders?

If you marked any criterion as "not applicable," it is helpful to explain that rating to the graders. If too many criteria are "not applicable," then the negotiation may not be a suitable one for grading. You should also indicate why you marked any criteria as "needing improvement." Under many circumstances, those scores may counsel against submitting that negotiation to BBX: The graders may score a negotiation as "unqualified" if one or more criteria receive that rating. Under some circumstances, though, you may feel that the Provisional Licensee has demonstrated minimum competence despite receiving a low score on one or two criteria. If that's the case, you should explain your reasoning in the comments.

In addition, it is helpful to explain any circumstances that made the negotiation particularly challenging for the Provisional Licensee. If the adverse party was unwilling

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to cede any ground, leading to a stalemate, note that. The Provisional Licensee may have done as well as any other lawyer under those circumstances. Similarly, a challenging client may have affected the tenor or outcome of the negotiation. Include any comments that you think will give BBX appropriate context for the negotiation. *(Last updated 7/12/24)*

How many negotiations must the Provisional Licensee document for BBX?

To meet the program’s requirement for negotiations, the Provisional Licensee must document two negotiations that are each scored as “qualified.” A qualified score means that the negotiation meets the licensing standard of minimum competence. The Provisional Licensee may, however, document as many negotiations as they need to meet the target of two qualified negotiations. If they document a negotiation that a grader marks as “not qualified,” they will receive feedback indicating how their negotiation fell short. *(Last updated 7/12/24)*

What types of negotiations count for this requirement?

SPPE Rule 6.6 explains that a negotiation “includes any discussion aimed at reaching an agreement.” The rule goes on to explain: “The negotiation does not have to focus on final resolution of the matter; it may focus on preliminary or interim matters.” Negotiations, finally, may arise “in the context of litigation, transactional, regulatory, or other matters.” A wide range of negotiations, in other words, will satisfy the SPPE requirement.

The chosen negotiation should be one that allows the Supervising Attorney to assess the Provisional Licensee’s “ability to express [their] position and [their] responsiveness to [their opponent].” SPPE Rule 6.6(C). The negotiation, in other words, should involve some interaction between the Provisional Licensee and the opponent. A simple demand letter does not constitute a negotiation—although the Provisional Licensee may be able to submit a demand letter as one of the writings required by the SPPE.

The criteria on the negotiation rubric can help inform the choice of a negotiation that the Provisional Licensee uses to meet this requirement. If you as the Supervising Attorney are compelled to check “NA” on too many criteria, the grader may find the information insufficient to assess the Provisional Licensee’s competence. Therefore, the Provisional Licensee should look for negotiations that will allow you to assess their competence on most or all those criteria. *(Last updated 7/12/24)*

Do the negotiations have to occur in person?

No. The negotiation may occur in person, by telephone, by video, or in any other manner. The Provisional Licensee may also ask you to assess a negotiation that occurred entirely in writing (such as by email or an exchange of letters). When you

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assess the negotiation, be sure you can hear or see the interactions between the Provisional Licensee and the opponent. For example, if the negotiation occurs over the telephone, be sure you can hear both your Provisional Licensee and the opposing party. *(Last updated 7/12/24)*

May I discuss the negotiation with the Provisional Licensee beforehand?

Absolutely. The Supervising Attorney’s rubric, in fact, requires you to discuss the negotiation with the Provisional Licensee in advance or to review their written negotiation plan. Adequate preparation for negotiations is part of minimum competence. *(Last updated 7/12/24)*

What if I conduct a negotiation together with my Provisional Licensee? Can that still count for this requirement?

SPPE Rule 6.6(D) requires you to attest that the Provisional Licensee “led the negotiation, with little or no assistance from the Supervising Attorney.” You or another attorney may participate in the negotiation, but the Provisional Licensee should be the one taking the lead for your side. Remember that the Provisional Licensee doesn’t have to document their first negotiations for the SPPE, they can learn and grow with feedback from other attorneys until they feel comfortable taking the lead. *(Last updated 7/12/24)*

Can the Provisional Licensee ask for my input on an issue while still taking the lead on a negotiation?

Yes. The client’s needs are paramount so, if the Provisional Licensee needs your input to address an issue that arises, they should request that input. After the negotiation concludes, you and the Provisional Licensee can decide whether their role was sufficient that they “led” the negotiation. Requesting assistance on some points does not necessarily detract from leading a negotiation. *(Last updated 7/12/24)*

Do we need consent from the client or opposing counsel to allow the Provisional Licensee to lead the negotiation while I observe?

If the Provisional Licensee conducts the negotiation orally (in person, by phone, or by video), then SPPE Rule 6.6(A) requires you or the Provisional Licensee to (a) explain your roles to opposing counsel and your client (if they are present), and (b) obtain oral consent from those attorneys and your client. If opposing counsel or your client withholds consent, the Provisional Licensee must choose a different negotiation to document for the SPPE.

If the negotiation occurs in writing, the Provisional Licensee does not need to obtain consent from opposing counsel or any client before documenting the negotiation for an SPPE submission. *(Last updated 7/12/24)*

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Most of my negotiations are confidential and privileged. Will I violate any professional duties if I allow the Provisional Licensee to document those negotiations for this requirement?

No, your Provisional Licensee can document these negotiations while still meeting all professional responsibilities. Even if the negotiation occurs in writing, the Provisional Licensee will not submit the negotiation itself to BBX; they will submit only the documents they prepare and the ones prepared by you. Those documents focus on the Provisional Licensee’s competence in conducting the negotiation without revealing the client’s identity, details about the underlying matter, or the substance of any communications. Before submitting those documents, you and the Provisional Licensee should review them to ensure that they include no information revealing your client’s identity or disclosing confidences.

To create another level of protection, you will provide information enabling BBX to shield graders from seeing documentation related to a matter in which their organization has represented an adverse party (or, for graders who are judges, documentation related to a matter that has been or may be filed in their court).

Finally, the Provisional Licensee’s submissions will not be shared outside BBX or the Admissions Department. *(Last updated 7/12/24)*

If BBX doesn’t review the negotiation, how will they assess competence?

The rubric that graders will apply to negotiations uses an “entrustment” approach. Medical professionals have used this approach successfully to assess the competence of new doctors. The grader will review the information provided by you and your Provisional Licensee and then answer this question: Based on that review, “would you allow the Provisional Licensee to conduct an unsupervised negotiation in their practice area?” If the grader answers “yes,” then the negotiation is marked “qualified.” A “no” answer means that the negotiation is not qualified. *(Last updated 7/12/24)*

I am too busy to observe my Provisional Licensee while conducting a negotiation. How should I handle that?

SPPE Rule 5.4 allows Supervising Attorneys to delegate some of their duties—including the assessment of negotiations—to another employee working for the same employer if: (a) that employee is an active member of the Oregon State Bar, and (b) the employee has the knowledge and skills to supervise the Provisional Licensee effectively. *(Last updated 7/12/24)*

If you have additional questions about the SPPE, please email sppe-supervisor@osbar.org.

We do not engage in negotiations during our regular legal practice. How can I help my Provisional Licensee satisfy this requirement?

You should consider whether there are creative ways to meet this requirement within your workplace. It may be possible for the Provisional Licensee to negotiate a small part of another matter handled by your organization. Alternatively, under your supervision, the Provisional Licensee may be able to take on a pro bono matter that is likely to give them an opportunity to demonstrate their negotiation skills.

If these options are not feasible, the Provisional Licensee will be able to participate in simulated negotiations arranged by the Admissions Department. Note, however, that these simulations will be available only at limited times and places; they will not be available on demand. It will be most convenient for the Provisional Licensee if they can find a way to satisfy this requirement within your workplace. *(Last updated 7/12/24)*

When can we expect OSB to publish simulated negotiation opportunities?

Given the start-up demands of the program, these simulations are unlikely to be available until late August or September. Please also note that simulations will be offered only at limited times and places; we will be unable to offer simulations on demand. We encourage Supervising Attorneys to make every effort to find negotiation opportunities for Provisional Licensees within their workplace—although we understand that this is not possible for some workplaces. *(Last updated 7/12/24)*

OTHER PORTFOLIO REQUIREMENTS

What is the Supervising Attorney’s role regarding the other SPPE Portfolio requirements?

The SPPE rules require Provisional Licensees to complete several program requirements beyond the required hours, written work product, client interactions, and negotiations. Supervising Attorneys play little role in fulfilling these other requirements, but we offer some information about them here.

What is the “Halfway Portfolio” that Provisional Licensees must submit?

SPPE Rule 7.1 requires Provisional Licensees to submit this portfolio after completing 350 hours of program work (or about half the total number of required hours). This portfolio must include an up-to-date Learning Plan; timesheets; at least three pieces of written work product, documentation of client interactions, and/or documentation of negotiations; and any other materials that have been completed by that point. The requirement is designed to ensure that Provisional Licensees are working on program elements and receiving feedback from BBX. *(Last updated 7/12/24)*

What is the Learning Plan that Provisional Licensees submit?

The Learning Plan asks Provisional Licensees to identify their learning goals, track progress on those goals, and identify activities and assignments that are most useful for achieving those goals. The Learning Plan also requires Provisional Licensees to set target completion dates for each program requirement and note when those requirements are satisfied. The SPPE Rules require Provisional Licensees to submit just one Learning Plan (with the Halfway Portfolio) but we encourage them to use the plan throughout their time as Provisional Licensees. *(Last updated 7/12/24)*

Should I ask to review the Learning Plan?

Program rules do not require Supervising Attorneys to review or approve Learning Plans, but you may find it useful to discuss the plan with your Provisional Licensee. The Learning Plan may help you and the Provisional Licensee identify opportunities for satisfying program requirements. The plan also provides a model for project management. You may want to discuss those principles with the Provisional Licensee and consider how similar plans might govern other parts of their work. *(Last updated 7/12/24)*

The SPPE rules require Provisional Licensees to devote at least 10 hours to activities related to diversity, equity, inclusion, or access to justice. What’s that about?

The requirement, contained in SPPE Rule 6.8, introduces Provisional Licensees to our profession’s commitment to these principles. Provisional Licensees can satisfy this

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requirement in many ways: through pro bono work, MCLE programs, volunteer work with an Oregon State Bar sponsored affinity bar association or affinity section, and self-study. The Admissions Department maintains a list of approved self-study opportunities (which will be posted on the SPPE website) and Provisional Licensees may propose additions to that list. *(Last updated 7/12/24)*

Our practice serves diverse clients and provides access to justice. Can Provisional Licensees satisfy the DEI/A2J requirement with hours from their practice?

No. Even if a practice area promotes these commitments, the requirement is designed to give Provisional Licensees an opportunity to reflect on these commitments from a different perspective. The requirement is a modest one that should not interfere with the Provisional Licensee's practice. *(Last updated 7/12/24)*

What are the 15 hours of Practice Overview MCLE programming that Provisional Licensees must attend, watch, or listen to?

Provisional Licensees may choose any 15 hours of the 20 hours included in the Professional Liability Fund's 2023 Learning the Ropes program. Provisional Licensees will be able to download recordings of those sessions free of charge. *(Last updated 7/12/24)*

I want my Provisional Licensee to attend MCLE sessions more closely related to our practice area. Can I substitute those sessions for the Practice Overview ones?

No. The Practice Overview requirement is designed to introduce Provisional Licensees to several areas of law practice, as well as to issues that cut across practice areas. You, however, are welcome to require your Provisional Licensee to attend other MCLE sessions on topics of your choice. If you require the Provisional Licensee to attend MCLE programs (or other training), the Provisional Licensee may count that time towards their required program hours. SPPE Rule 6.12(C). *(Last updated 7/12/24)*

My Provisional Licensee intends to complete the Ethics Requirement by writing 10 journal entries. Do I need to do anything for them to complete those entries?

No. The Board will publish rules related to the journaling path by early July. Provisional Licensees will be able to pursue this alternative by following those rules. *(Last updated 7/12/24)*

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