California Rules of Court

Division 4. Appearances and Practice by Individuals Who Are Not Members of the State Bar of California

Rule 9.42. Certified law students

(a) Definitions

(1) A "certified law student" is a law student who has a currently effective certificate of registration as a certified law student from the State Bar.
(2) A "supervising attorney" is a member of the State Bar who agrees to supervise a certified law student under rules established by the State Bar and whose name appears on the application for certification.
(Subd (a) amended effective January 1, 2007.)

(b) State Bar Certified Law Student Program

The State Bar must establish and administer a program for registering law students under rules adopted by the Board of Governors of the State Bar.
(Subd (b) amended effective January 1, 2007.)

(c) Eligibility for certification

To be eligible to become a certified law student, an applicant must:
(1) Have successfully completed one full year of studies (minimum of 270 hours) at a law school accredited by the American Bar Association or the State Bar of California, or both, or have passed the first year law students' examination;
(2) Have been accepted into, and be enrolled in, the second, third, or fourth year of law school in good academic standing or have graduated from law school, subject to the time period limitations specified in the rules adopted by the Board of Governors of the State Bar; and
(3) Have either successfully completed or be currently enrolled in and attending academic courses in evidence and civil procedure.

(d) Permitted activities

Subject to all applicable rules, regulations, and statutes, a certified law student may:
(1) Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the certified law student:
    (A) Obtains the approval of the supervising attorney to engage in the activities;
    (B) Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the certified law student; and
    (C) Performs the activities under the general supervision of the supervising attorney;
(2) Appear on behalf of the client in depositions, provided that the certified law student:
    (A) Obtains the approval of the supervising attorney to engage in the activity;
    (B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies,

any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney); and

(C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student;

(3) Appear on behalf of the client in any public trial, hearing, arbitration, or proceeding, or before any arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, provided that the certified law student:

(A) Obtains the approval of the supervising attorney to engage in the activity;

(B) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney);

(C) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student; and

(D) As a condition to such appearance, either presents a copy of the consent form to the arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, or files a copy of the consent form in the court case file; and

(4) Appear on behalf of a government agency in the prosecution of criminal actions classified as infractions or other such minor criminal offenses with a maximum penalty or a fine equal to the maximum fine for infractions in California, including any public trial:

(A) Subject to approval by the court, commissioner, referee, hearing officer, or magistrate presiding at such public trial; and

(B) Without the personal appearance of the supervising attorney or any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney, but only if the supervising attorney or the designated attorney has approved in writing the performance of such acts by the certified law student and is immediately available to attend the proceeding.

(Subd (d) amended effective January 1, 2007.)

(e) Failure to comply with program

A certified law student who fails to comply with the requirements of the State Bar Certified Law Student Program must have his or her certification withdrawn under rules adopted by the Board of Governors of the State Bar.

(Subd (e) amended effective January 1, 2007.)

(f) Fee and penalty

The State Bar has the authority to set and collect appropriate fees and penalties for this program.

(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

(Subd (g) amended effective January 1, 2007.)

Rule 9.42 amended and renumbered effective January 1, 2007; adopted as rule 983.2 by the Supreme Court effective December 29, 1993.

Rule 9.43. Out-of-state attorney arbitration counsel

(a) Definition

An "out-of-state attorney arbitration counsel" is an attorney who is:
(1) Not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or the highest court in any state, territory, or insular possession of the United States, and who has been retained to appear in the course of, or in connection with, an arbitration proceeding in this state;
(2) Has served a certificate in accordance with the requirements of Code of Civil Procedure section 1282.4 on the arbitrator, the arbitrators, or the arbitral forum, the State Bar of California, and all other parties and counsel in the arbitration whose addresses are known to the attorney; and
(3) Whose appearance has been approved by the arbitrator, the arbitrators, or the arbitral forum.
(Subd (a) amended effective January 1, 2007.)

(b) State Bar Out-of-State Attorney Arbitration Counsel Program

The State Bar of California must establish and administer a program to implement the State Bar of California's responsibilities under Code of Civil Procedure section 1282.4. The State Bar of California's program may be operative only as long as the applicable provisions of Code of Civil Procedure section 1282.4 remain in effect.
(Subd (b) amended effective January 1, 2007.)

(c) Eligibility to appear as an out-of-state attorney arbitration counsel

To be eligible to appear as an out-of-state attorney arbitration counsel, an attorney must comply with all of the applicable provisions of Code of Civil Procedure section 1282.4 and the requirements of this rule and the related rules and regulations adopted by the State Bar of California.
(Subd (c) amended effective January 1, 2007.)

(d) Discipline

An out-of-state attorney arbitration counsel who files a certificate containing false information or who otherwise fails to comply with the standards of professional conduct required of members of the State Bar of California is subject to the disciplinary jurisdiction of the State Bar with respect to any of his or her acts occurring in the course of the arbitration.
(Subd (d) amended effective January 1, 2007.)

(e) Disqualification

Failure to timely file and serve a certificate or, absent special circumstances, appearances in multiple separate arbitration matters are grounds for disqualification from serving in the arbitration in which the certificate was filed.
(Subd (e) amended effective January 1, 2007.)

(f) Fee

Out-of-state attorney arbitration counsel must pay a reasonable fee not exceeding $50 to the State Bar of California with the copy of the certificate that is served on the State Bar.
(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.
(Subd (g) amended effective January 1, 2007.)
Rule 9.43 amended and renumbered effective January 1, 2007; adopted as rule 983.4 by the Supreme Court effective July 1, 1999.

Rule 9.44. Registered foreign legal consultant

(a) Definition

A "registered foreign legal consultant" is a person who:
(1) Is admitted to practice and is in good standing as an attorney or counselor-at-law or the equivalent in a foreign country; and
(2) Has a currently effective certificate of registration as a registered foreign legal consultant from the State Bar.
(Subd (a) amended effective January 1, 2007.)

(b) State Bar Registered Foreign Legal Consultant Program

The State Bar must establish and administer a program for registering foreign attorneys or counselors-at-law or the equivalent under rules adopted by the Board of Governors of the State Bar.
(Subd (b) amended effective January 1, 2007.)

(c) Eligibility for certification

To be eligible to become a registered foreign legal consultant, an applicant must:
(1) Present satisfactory proof that the applicant has been admitted to practice and has been in good standing as an attorney or counselor-at-law or the equivalent in a foreign country for at least four of the six years immediately preceding the application and, while so admitted, has actually practiced the law of that country;
(2) Present satisfactory proof that the applicant possesses the good moral character requisite for a person to be licensed as a member of the State Bar of California;
(3) Agree to comply with the provisions of the rules adopted by the Board of Governors of the State Bar relating to security for claims against a foreign legal consultant by his or her clients;
(4) Agree to comply with the provisions of the rules adopted by the Board of Governors of the State Bar relating to maintaining an address of record for State Bar purposes;
(5) Agree to notify the State Bar of any change in his or her status in any jurisdiction where he or she is admitted to practice or of any discipline with respect to such admission;
(6) Agree to be subject to the jurisdiction of the courts of this state with respect to the laws of the State of California governing the conduct of attorneys, to the same extent as a member of the State Bar of California;
(7) Agree to become familiar with and comply with the standards of professional conduct required of members of the State Bar of California;
(8) Agree to be subject to the disciplinary jurisdiction of the State Bar of California;

(9) Agree to be subject to the rights and obligations with respect to attorney client privilege, work-product privilege, and other professional privileges, to the same extent as attorneys admitted to practice law in California; and
(10) Agree to comply with the laws of the State of California, the rules and regulations of the State Bar of California, and these rules.
(Subd (c) amended effective January 1, 2007.)

(d) Authority to practice law

Subject to all applicable rules, regulations, and statutes, a registered foreign legal consultant may render legal services in California, except that he or she may not:
(1) Appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state or
prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer;
(2) Prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;
(3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident or any instrument relating to the administration of a decedent's estate in the United States;
(4) Prepare any instrument in respect of the marital relations, rights, or duties of a resident of the United States, or the custody or care of the children of a resident; or
(5) Otherwise render professional legal advice on the law of the State of California, any other state of the United States, the District of Columbia, the United States, or of any jurisdiction other than the jurisdiction named in satisfying the requirements of (c) of this rule, whether rendered incident to preparation of legal instruments or otherwise.
(Subd (d) amended effective January 1, 2007.)

(e) Failure to comply with program

A registered foreign legal consultant who fails to comply with the requirements of the State Bar Registered Foreign Legal Consultant Program will have her or his certification suspended or revoked under rules adopted by the Board of Governors of the State Bar.
(Subd (e) amended effective January 1, 2007.)

(f) Fee and penalty

The State Bar has the authority to set and collect appropriate fees and penalties for this program.
(Subd (f) amended effective January 1, 2007.)

(g) Inherent power of Supreme Court

Nothing in these rules may be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.
(Subd (g) amended effective January 1, 2007.)
Rule 9.44 amended and renumbered effective January 1, 2007; adopted as rule 988 effective December 1, 1993.

Rule 9.45. Registered legal services attorneys

(a) Definitions

The following definitions apply in this rule:
(1) "Qualifying legal services provider" means either of the following, provided that the qualifying legal services provider follows quality-control procedures approved by the State Bar of California:

(A) A nonprofit entity incorporated and operated exclusively in California that as its primary purpose and function provides legal services without charge in civil matters to indigent persons, especially underserved client groups, such as the elderly, persons with disabilities, juveniles, and non-English-speaking persons; or

(B) A program operated exclusively in California by a nonprofit law school approved by the American Bar Association or accredited by the State Bar of California that has operated for at least two years at a cost of at least $20,000 per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(2) "Active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who:

(A) Is a member in good standing of the entity governing the practice of law in each jurisdiction in which the member is licensed to practice law;

(B) Remains an active member in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency other than
California while practicing law as a registered legal services attorney in California; and

(C) Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.

(Subd (a) relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)

(b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule may practice law in California only while working, with or without pay, at a qualifying legal services provider, as defined in this rule, and, at that institution and only on behalf of its clients, may engage, under supervision, in all forms of legal practice that are permissible for a member of the State Bar of California.
(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Requirements

For an attorney to practice law under this rule, the attorney must:
(1) Be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
(2) Register with the State Bar of California and file an Application for Determination of Moral Character;
(3) Meet all of the requirements for admission to the State Bar of California, except that the attorney:

(A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and

(B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;

(4) Comply with the rules adopted by the Board of Governors relating to the State Bar Registered Legal Services Attorney Program;

(5) Practice law exclusively for a single qualifying legal services provider, except that, if so qualified, an attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel;
(6) Practice law under the supervision of an attorney who is employed by the qualifying legal services provider and who is a member in good standing of the State Bar of California;
(7) Abide by all of the laws and rules that govern members of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
(8) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that members of the State Bar of California must complete every three years; and
(9) Not have taken and failed the California bar examination within five years immediately preceding application to register under this rule.
(Subd (c) relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Application

To qualify to practice law as a registered legal services attorney, the attorney must:
(1) Register as an attorney applicant and file an Application for Determination of Moral Character with the Committee of Bar Examiners;
(2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than under supervision at a qualifying legal services provider during the time he or she practices law as a registered legal services attorney in California, except that, if so qualified, the attorney may, while practicing under this rule, simultaneously practice law as registered in-house counsel; and
(3) Submit to the State Bar of California a declaration signed by a qualifying supervisor on behalf of the qualifying legal services provider
in California attesting that the applicant will work, with or without pay, as an attorney for the organization; that the applicant will be supervised as specified in this rule; and that the qualifying legal services provider and the supervising attorney assume professional responsibility for any work performed by the applicant under this rule.
(Subd (d) relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Duration of practice

An attorney may practice for no more than a total of three years under this rule.
(Subd (e) relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Application and registration fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered legal services attorneys.
(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(g) State Bar Registered Legal Services Attorney Program

The State Bar may establish and administer a program for registering California legal services attorneys under rules adopted by the Board of Governors of the State Bar.
(Subd (g) relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

(h) Supervision

To meet the requirements of this rule, an attorney supervising a registered legal services attorney:
(1) Must be an active member in good standing of the State Bar of California;
(2) Must have actively practiced law in California and been a member in good standing of the State Bar of California for at least the two years immediately preceding the time of supervision;
(3) Must have practiced law as a full-time occupation for at least four years;
(4) Must not supervise more than two registered legal services attorneys concurrently;
(5) Must assume professional responsibility for any work that the registered legal services attorney performs under the supervising attorney's supervision;
(6) Must assist, counsel, and provide direct supervision of the registered legal services attorney in the activities authorized by this rule and review such activities with the supervised attorney, to the extent required for the protection of the client;
(7) Must read, approve, and personally sign any pleadings, briefs, or other similar documents prepared by the registered legal services attorney before their filing, and must read and approve any documents prepared by the registered legal services attorney for execution by any person who is not a member of the State Bar of California before their submission for execution; and
(8) May, in his or her absence, designate another attorney meeting the requirements of (1) through (7) to provide the supervision required under this rule.
(Subd (h) relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

(i) Inherent power of Supreme Court

Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.
(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)

(j) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members of the State Bar of California.
(Subd (j) relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)
Rule 9.45 amended and renumbered effective January 1, 2007; adopted as rule 964 by the Supreme Court effective November 15, 2004.

Rule 9.46. Registered in-house counsel

(a) Definitions

The following definitions apply to terms used in this rule:
(1) "Qualifying institution" means a corporation, a partnership, an association, or other legal entity, including its subsidiaries and organizational affiliates. Neither a governmental entity nor an entity that provides legal services to others can be a qualifying institution for purposes of this rule. A qualifying institution must:

(A) Employ at least 10 employees full time in California; or
(B) Employ in California an attorney who is an active member in good standing of the State Bar of California.

(2) "Active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency" means an attorney who meets all of the following criteria:

(A) Is a member in good standing of the entity governing the practice of law in each jurisdiction in which the member is licensed to practice law;
(B) Remains an active member in good standing of the entity governing the practice of law in at least one United States state, jurisdiction, possession, territory, or dependency, other than California, while practicing law as registered in-house counsel in California; and
(C) Has not been disbarred, has not resigned with charges pending, or is not suspended from practicing law in any other jurisdiction.
(Subd (a) relettered effective January 1, 2007; adopted as subd (j) effective November 15, 2004.)

(b) Scope of practice

Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is:
(1) Permitted to provide legal services in California only to the qualifying institution that employs him or her;
(2) Not permitted to make court appearances in California state courts or to engage in any other activities for which *pro hac vice* admission is required if they are performed in California by an attorney who is not a member of the State Bar of California; and
(3) Not permitted to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution.
(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective November 15, 2004.)

(c) Requirements

For an attorney to practice law under this rule, the attorney must:
(1) Be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency;
(2) Register with the State Bar of California and file an Application for Determination of Moral Character;
(3) Meet all of the requirements for admission to the State Bar of California, except that the attorney:
(A) Need not take the California bar examination or the Multistate Professional Responsibility Examination; and
(B) May practice law while awaiting the result of his or her Application for Determination of Moral Character;
(4) Comply with the rules adopted by the Board of Governors relating to the State Bar Registered In-House Counsel Program;
(5) Practice law exclusively for a single qualifying institution, except that, while practicing under this rule, the attorney may, if so qualified, simultaneously practice law as a registered legal services attorney;
(6) Abide by all of the laws and rules that govern members of the State Bar of California, including the Minimum Continuing Legal Education (MCLE) requirements;
(7) Satisfy in his or her first year of practice under this rule all of the MCLE requirements, including ethics education, that members of the State Bar of California must complete every three years and, thereafter, satisfy the MCLE requirements applicable to all members of the State Bar; and
(8) Reside in California.
(Subd (c) relettered effective January 1, 2007; adopted as subd (b) effective November 15, 2004.)

(d) Application

To qualify to practice law as registered in-house counsel, an attorney must:
(1) Register as an attorney applicant and file an Application for Determination of Moral Character with the Committee of Bar Examiners;
(2) Submit to the State Bar of California a declaration signed by the attorney agreeing that he or she will be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California and attesting that he or she will not practice law in California other than on behalf of the qualifying institution during the time he or she is registered in-house counsel in California, except that if so qualified, the attorney may, while practicing under this rule, simultaneously practice law as a registered legal services attorney; and
(3) Submit to the State Bar of California a declaration signed by an officer, a director, or a general counsel of the applicant's employer, on behalf of the applicant's employer, attesting that the applicant is employed as an attorney for the employer, that the nature of the employment conforms to the requirements of this rule, that the employer will notify the State Bar of California within 30 days of the cessation of the applicant's employment in California, and that the person signing the declaration believes, to the best of his or her knowledge after reasonable inquiry, that the applicant qualifies for registration under this rule and is an individual of good moral character.
(Subd (d) relettered effective January 1, 2007; adopted as subd (c) effective November 15, 2004.)

(e) Duration of practice

A registered in-house counsel must renew his or her registration annually. There is no limitation on the number of years in-house counsel may register under this rule. Registered in-house counsel may practice law under this rule only for as long as he or she remains employed by the same qualifying institution that provided the declaration in support of his or her application. If an attorney practicing law as registered in-house counsel leaves the employment of his or her employer or changes employers, he or she must notify the State Bar of California within 30 days. If an attorney wishes to practice law under this rule for a new employer, he or she must first register as in-house counsel for that employer.
(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective November 15, 2004.)

(f) Eligibility

An application to register under this rule may not be denied because:
(1) The attorney applicant has practiced law in California as in-house counsel before the effective date of this rule.
(2) The attorney applicant is practicing law as in-house counsel at or after the effective date of this rule, provided that the attorney applies under this rule within six months of its effective date.
(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective November 15, 2004.)

(g) Application and registration fees

The State Bar of California may set appropriate application fees and initial and annual registration fees to be paid by registered in-house counsel.
(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f) effective November 15, 2004.)

(h) State Bar Registered In-House Counsel Program

The State Bar must establish and administer a program for registering California in-house counsel under rules adopted by the Board of Governors.
(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (g) effective November 15, 2004.)

(i) Inherent power of Supreme Court
Nothing in this rule may be construed as affecting the power of the Supreme Court of California to exercise its inherent jurisdiction over the practice of law in California.
(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective November 15, 2004.)

(j) Effect of rule on multijurisdictional practice

Nothing in this rule limits the scope of activities permissible under existing law by attorneys who are not members of the State Bar of California.
(Subd (j) relettered effective January 1, 2007; adopted as subd (i) effective November 15, 2004.)
Rule 9.46 amended and renumbered effective January 1, 2007; adopted as rule 965 by the Supreme Court effective November 15, 2004.