

NOTICE TO THE BAR

PROPOSAL TO PERMIT OUT-OF-STATE ATTORNEYS TO PROVIDE PRO BONO SERVICES UNDER INDIVIDUAL SUPERVISION; AMENDMENTS TO RULE 1:21-3 – REQUEST FOR PUBLIC COMMENT

The Supreme Court invites written comments on a proposal to amend Rule 1:21-3 so as to permit attorneys not licensed in New Jersey to provide pro bono legal services to qualifying individuals and businesses under the supervision of a New Jersey licensed attorney rather than under the auspices of a clinical program or pro bono program.

Background

The Court in its [August 16, 2021](#) second annual Action Plan for Ensuring Equal Justice committed to explore legal representation at all levels of the courts. Consistent with that pledge, this proposal would expand the temporary authorization granted in the Court's [May 4, 2020](#) Order so that attorneys licensed in other jurisdictions could continue to provide pro bono legal services to qualifying clients subject to supervision by a New Jersey licensed attorney.

The Court in May 2020 relaxed the Court Rules to allow attorneys not licensed to practice in New Jersey to provide pro bono services to individuals and small businesses affected by the COVID-19 emergency. The Court relied primarily on Rule 1:21-10 (“Provision of Legal Services Following Determination of Major Disaster”), which authorizes the Court to determine when an emergency affecting the justice system has occurred, and, after making that finding, to permit the temporary practice of law in New Jersey to help address that emergency.

Governor Murphy in June 2021 concluded the public health emergency arising from the COVID-19 pandemic, although the state of emergency remains in effect. To the extent that COVID-19 follows the trajectory of prior global pandemics, its effects conceivably could continue for years, long after the immediate emergency has subsided. In that regard, the pandemic may persist longer than other “major disasters” covered by Rule 1:21-10, and it may remain beneficial for out-of-state counsel to provide pro bono services with appropriate supervision.

Proposed Amendments to Rule 1:21-3

The Court thus invites comments on proposed amendments to Rule 1:21-3

(“Appearance by Law Graduates and Students; Special Permission for Out-of-State Attorneys”) as follows:

Rule 1:21-3 (“Appearance by Law Graduates and Students; Special Permission for Out-of-State Attorneys”):

(c) Permission for Out-of-State Attorneys to Practice in This State. A graduate of an approved law school who is a member of the bar of another state or of the District of Columbia and **(i)** is employed by, associated with, or serving as a volunteer pro bono attorney with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), **or (ii) is providing pro bono services under the supervision of a New Jersey licensed attorney in good standing,** shall be permitted to practice, under [the] supervision [of a member of the bar of the State,] **in** all courts of this State in all causes [on behalf of such entities,] subject to the following conditions:

(1) Permission for an out-of-state attorney to practice under this rule shall become effective on filing with the Clerk of the Supreme Court evidence of graduation from an approved law school, a certificate of any court of last resort certifying that the out-of-state attorney is a member in good standing of the bar of another state or of the District of Columbia, and **either:**

(i) a statement that the out-of-state attorney is currently employed by, associated with, or serving on a voluntary pro bono basis with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), which statement shall be signed by the entity’s lead attorney who practices law in New Jersey; **or**

(ii) a certification by the New Jersey attorney who will be supervising such attorney in the service of pro bono services and indicating the nature of the assistance to be provided.

(2) Permission to practice under this rule is limited to the provision of pro bono services and shall apply only in matters in which the out-of-state attorney is employed by, associated with, or serving as a volunteer pro bono attorney with a legal services or public interest organization or law school clinical or pro bono program certified under R. 1:21-11(b)(1) or (b)(3), **or supervised by a New Jersey licensed attorney in good standing;**

(3) In all instances where pro bono legal services are provided under individual supervision, by April 30 of every year the New Jersey attorney who is providing that supervision shall file with the Clerk of the Supreme Court a list of attorneys who have provided qualifying pro bono service under their supervision in the preceding year and indicating the nature of the assistance provided;

[(3)] **(4)** Permission to practice in this State under this rule may be revoked or suspended by the Supreme Court, in its discretion, at any time either by written notice to the out-of-state attorney or by amendment or deletion of this rule; and

[(4)] **(5)** Out-of-state attorneys permitted to practice under this rule are not, and shall not represent themselves to be, members of the bar of this State.

Please send any comments on the proposed amendments to Rule 1:21-3 in writing by January 24, 2022 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Proposed Amendments to Rule 1:21-3 (Out-of-State Attorneys)
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via email to: Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by email should include their name and email address). Comments are subject to public disclosure upon receipt.



Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: December 21, 2021