



# News Release

www.njcourts.com

For more information:  
Winnie Comfort  
Pete McAleer  
609-292-9580

For immediate release:  
April 14, 2016

## Supreme Court Issues Administrative Determinations Affecting Legal Practice

*Chief Justice Stuart Rabner, on behalf of the Supreme Court, today released Administrative Determinations on three important areas of legal practice in New Jersey: the Uniform Bar Examination, admission by motion and metadata in electronic documents. The statement below by the chief justice addresses all three areas and has links to the committee reports discussed.*

Today the Supreme Court takes several steps designed to embrace many benefits of the modern practice of law and to confront shifting challenges facing our profession. In particular, the Court adopts the Uniform Bar Examination to replace New Jersey's existing bar examination format; adopts admission by motion subject to a number of conditions; and revises certain Court Rules to address intricate questions relating to metadata in electronic documents. New Jersey joins many other states in taking these actions.

These measures were carefully scrutinized – by committees, through public comment and testimony, and, ultimately, by the Court – and represent the collective work of three Supreme Court Committees, staff, volunteers, attorneys, stakeholder organizations, and dedicated members of the public. The Court is grateful to the countless practitioners, academics, judges, and members of the legal community who gave their time and shared their perspectives to shape these important deliberations.

The Court carefully considered the reports and recommendations of three committees -- the Ad Hoc Committee on the Uniform Bar Examination, chaired by Associate Justice Jaynee LaVecchia and vice-chaired by Retired Associate Justice John E. Wallace, Jr.; the Special Committee on Attorney Ethics and Admissions, chaired by Retired Chief Justice James R. Zazzali, Jr., and vice-chaired by Paula A. Franzese, Professor of Law, Seton Hall Law School; and the Working Group on Ethical Issues Involving Metadata in Electronic Documents, chaired by Associate Justice Anne M. Patterson and vice-chaired by Thomas P. Scrivo, Chief Counsel to the Governor -- along with comments from the legal community and the public. The Court has issued Administrative Determinations, which are available on the [Judiciary's website](#).

In short, the policy decisions announced today address real needs within the legal community and enable New Jersey to adapt to changing times while steadfastly protecting the public. Some measures will benefit new attorneys graduating into an unsteady economic climate; others will assist lawyers who are more established in their practice and find that the legal market increasingly demands flexibility and multijurisdictional practice. Still other measures are designed to harness the power of technology to aid clients and protect their personal and business interests.

In the aggregate, these steps will usher in a more modern and practical approach to bar admissions and the practice of law, while upholding the strict standards of attorney excellence to which the Court and the Bar remain fiercely committed.

### **Uniform Bar Examination (UBE)**

Following the recommendation of the [Ad Hoc Committee on the Uniform Bar Examination](#), the Court has determined to adopt the UBE as a replacement for New Jersey's existing bar examination format, beginning with the February 2017 administration of the exam. New Jersey joins 21 jurisdictions that have already adopted the UBE.

The UBE is a standardized test drafted by the National Conference of Bar Examiners (NCBE), and is uniformly administered, graded, and scored in participating jurisdictions. The UBE consists of three components: the Multistate Bar Examination (MBE), a multiple choice exam; the Multistate Essay Examination, comprised of six essay questions testing law of general application; and the Multistate Performance Test, comprised of two writing tasks designed to test practical lawyering skills. The Court determined that the UBE is a well-written examination that fairly assesses the required minimum competence to practice law.

Applicants who take the UBE earn a portable score that can be transferred to other UBE jurisdictions including New York, Vermont, New Hampshire, and Washington, D.C., among others, for a set period of time for the purpose of applying for admission in those other jurisdictions. The Court found substantial value in the UBE's score portability, which is expected to benefit not only New Jersey applicants and their families, by allowing greater mobility among recent law graduates, but also the public, through the provision of increased legal resources in currently under-served areas. Score portability also will help alleviate the considerable financial strain facing applicants who currently sit for multiple bar examinations.

Notably, adopting the UBE does not diminish the Supreme Court's supervisory role over attorney admissions or the standards required of New Jersey attorneys. The step taken by the Court today simply replaces the current mechanism to assess the required minimum competence to practice law with another format. The content covered by the UBE and the current New Jersey bar examination is aligned; the current examination does not contain a New Jersey-specific component that will be lost by adopting the UBE. Consistent with the Committee's findings, the Court concluded that transitioning to the UBE will bestow considerable benefits and uphold New Jersey's high standards for attorney licensure.

### **Admission by Motion**

The [Special Committee on Attorney Ethics and Admissions](#) reviewed recent American Bar Association (ABA) amendments to the [Model Rules of Professional Conduct](#) and standards for admission to practice law. Among other notable topics, the Committee delved deeply into the issue of admission by motion, the process of admitting out-of-state attorneys to practice law in this state without taking and passing New Jersey's bar examination, provided the attorneys meet other specified prerequisites.

After thorough deliberation, the Court adopted admission by motion, subject to certain important restrictions: Applicants for admission to the New Jersey bar by motion must hold a juris doctor degree from an ABA-accredited law school; demonstrate fitness and character to practice law; attain a qualifying score on the Multi-State Professional Responsibility Examination or pass an approved law school ethics course; have practiced for five of the last seven years in another jurisdiction; have previously passed a bar examination in another jurisdiction; be admitted in a jurisdiction that would extend a reciprocal license by motion to New Jersey lawyers; and complete a course on New Jersey ethics and professionalism as a condition precedent to admission. Admission by motion removes only the requirement that certain applicants take and pass the New

Jersey bar examination. All applicants, whether by motion or by exam, must still be certified by the Committee on Character and meet all other criteria for admission.

The Court has studied this proposal in various forms since 1983. It finds that the time has come for New Jersey to join the vast majority of United States jurisdictions –40 states plus the District of Columbia—which offer admission by motion. The Court acknowledges the legitimate concern of some contributors that this decision may have adverse consequences for certain New Jersey lawyers, particularly in today’s economic climate. But the Court could not identify a reason grounded in the public interest to continue to decline adoption of admission by motion.

As we move further into the 21<sup>st</sup> century, the Court is increasingly aware that the modern practice of law requires lawyers to be more mobile. Just as out-of-state lawyers may need to follow clients, cases, or a family member to New Jersey, New Jersey lawyers may seek opportunities in other jurisdictions and would have a ready means to do so through reciprocal admission by motion. Ultimately, the Court weighed all of the relevant considerations and found compelling the benefits that admission by motion will offer New Jersey lawyers and the public.

### **Metadata**

The Court addressed an important ethical question raised by New Jersey practitioners in the context of their contemporary practice: whether a lawyer who receives an electronic document may, consistent with the rules governing attorney ethics, review metadata in that document.

“Metadata” is embedded information in electronic documents that is generally hidden from view in a printed document. Metadata may reflect such information as the author of a document, date(s) on which the document was revised, tracked revisions, and comments inserted in the margins, among other things. This embedded electronic information may include privileged information or other potentially objectionable, private or proprietary information.

Following a careful review, the Court adopts the recommendations of the [Working Group on Ethical Issues Involving Metadata in Electronic Documents](#), and makes a number of amendments to the [Court Rules](#) regarding electronic documents and metadata. The measures are designed to protect sensitive client data, clarify attorneys’ professional obligations, and foster education programs so that the legal community may be better equipped to meet the unique challenges inherent in exchanging documents electronically -- a modern reality that is ubiquitous in the contemporary practice of law.

\*\*\*

The Court is confident that today’s decisions, some of which have been under consideration for many years, will inure to the benefit of New Jersey attorneys, the legal community, and the public.

###