

Texas Board of Legal Specialization

ATTORNEY RULES AND REGULATIONS

DEFINITIONS:

“**AC**” refers to the Advisory Commissions appointed by TBLS. An AC is assigned for each specialty area.

“**Annual reporting**” refers to the process in which a member reports his or her percentage of substantial involvement in the specialty area for the previous calendar year to TBLS and submits payment of the required annual fee for the current calendar year.

“**Applicant**” refers to either a certification or a recertification applicant unless otherwise specifically stated.

“**CLE**” refers to continuing legal education.

“**EC**” refers to the Exam Commissions appointed by TBLS. An EC is assigned for each specialty area.

“**Hold**” refers to a status issued by TBLS to a member who is being monitored because he or she has not met requirements to maintain certification as provided in the Standards. A member may not continue to use the “Board Certified” designation while on this status.

“**Member**” refers to a board-certified attorney or judge.

“**Plan**” refers to the Texas Plan for Recognition and Regulation of Specialization in the Law.

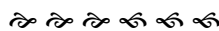
“**Rules**” refers to these TBLS Rules and Regulations.

“**SBOT**” refers to the State Bar of Texas.

“**Standards**” refers to the TBLS Standards for Attorney Certification which is divided in two parts. Part I – General Requirements pertains to all applicants and board-certified members. Part II – Specific Area Requirements provides the task requirements for each individual specialty area.

“**TBLS**” refers to the Texas Board of Legal Specialization.

“**TDRPC**” refers to the Texas Disciplinary Rules of Professional Conduct.



Note: All references to a particular Section in this document pertain to these Rules unless otherwise specified.

SECTION I

CERTIFICATION AND RECERTIFICATION REQUIREMENTS

A. FORM AND CONTENT

TBLS will provide all forms online that are used to certify, recertify and annual reporting purposes. In some cases, the annual reporting form is sent in paper form and is to remain unaltered. When the attorney or judge certifying, recertifying, or reporting annually uses TBLS' online forms, the attorney or judge is affirming that the information submitted is true and complete. An annual reporting form (in paper form) without alterations must be signed to attest that the information submitted is true and complete. As stated in Section I, G below, if an applicant alters a TBLS form, the attorney or judge is incurring risks that TBLS will deny the attorney or judge's certification or recertification.

B. TBLS CONTACT INFORMATION

TBLS contacts an applicant or member using the information he or she provided to the SBOT (mailing address, email address and telephone number). TBLS primarily uses email but may send a notice to the applicant or member by regular or certified mail. The applicant or member is responsible for keeping his or her contact information on the SBOT membership rolls updated and accurate to thus assure that TBLS can contact the applicant or member.

C. COMPLETION OF REQUIREMENTS

1. Certification

- a.** TBLS sets the filing deadline for the applicant to complete the substantial involvement requirements in the application.
- b.** By December 31 of the year of application, the applicant is responsible for completing the following two requirements:
 - (i) The 5-year period of law practice required for certification, and
 - (ii) The CLE requirements for certification.
- c.** The applicant for certification will have two opportunities to pass the examination:
 - (i) First, during the year in which the applicant filed the application ("application year").
 - (ii) Second, during the year immediately following the application year, but subject to TBLS review and re-approval, and the applicant paying a fee for resubmission of the application.
- d.** An applicant may withdraw an application if he or she submits a written request to TBLS before the appropriate AC reviews the application. If an applicant withdraws an application, the applicant is not entitled to a refund of the filing fee. Further, once an applicant withdraws an application, the applicant will be denied an opportunity to reapply under Section I, C, 1, c.

2. Recertification 1

- a.** Once certified, a member will be entitled to retain the certification for 5 years, provided the member pays the annual fee required for the specialty area for each year of the 5 year

1 (i) A member granted senior status designation should refer to the Standards, Part I-General Requirements, Section VIII, D for the specific requirements for annual reporting and recertification requirements specific to senior status.

(ii) A member with judicial status should refer to the Standards, Part I-General Requirements, Section VI, C, 1, b for the specific annual reporting and recertification requirements specific to judicial status.

period of certification and meets all other requirements set forth in TBLS Standards (Part I-General Requirements and Part II-Specific Area Requirements for the specialty area), including meeting the minimum substantial involvement percentage for the applicable specialty area, and TBLS Rules and Regulations.

- b. To continue to be certified, the member will be required to complete those tasks required for recertification every 5th year of certification. Refer to Standards, Part II-Specific Area Requirements, Section I, C in the applicable specialty area for the substantial involvement requirements for recertification.
- c. The tasks required for a member to recertify are:
 - (i) Timely complete annual reporting by the deadline (according to the TBLS established deadline),
 - (ii) Timely pay both the annual and recertification fee for the applicable specialty area (according to the TBLS established deadline),
 - (iii) Timely provide names and addresses of attorneys and judges to serve as references for the peer review process (according to the TBLS established deadline), and
 - (iv) Complete the CLE requirements for recertification.
- d. A member who does not wish to recertify in a specialty area is not required to pay the recertification fee or provide references. However, the annual fee must be paid for the specialty area if the member wishes to remain board-certified through December 31 to complete the 5-year-period of certification.

D. SUPPLEMENTARY INFORMATION

TBLS may ask the applicant for certification or recertification for supplemental information in addition to the information originally submitted, including a personal interview.

E. DEADLINES

1. Certification

- a. **Application for Certification.** An applicant for certification must timely file an application by the deadline established by TBLS.
- b. **Filing Fee.** The filing fee for certification is \$250 (for each specialty area). The applicant is required to timely pay the required filing fee or the application will not be accepted.
- c. **Refund.** Once paid, the filing fee is non-refundable.
- d. **Resubmission of Application.** If an applicant is approved for certification but elects to not pursue the certification for the application year, then the applicant will be permitted to resubmit the same application the following year if the applicant pays a \$50 certification application resubmission fee.

2. Annual Reporting - Recertification

A member is subject to the following annual reporting and recertification requirements described in more detail in Section I, C, 2. The member must submit these requirements to TBLS by the filing deadline, as established by TBLS.

- a. **Annual Fee.** To be certified each year of the 5-year certification period, the member must timely pay the annual fee. Each board specialty requires an annual fee of \$200.
- b. **Recertification Fee.** To be recertified, the member must timely pay the recertification fee. In addition to the annual fee of \$200 (for each specialty), a member applying to be recertified for a specialty area is required to pay an additional recertification fee of \$100. A member who has Senior status or Judicial status with TBLS is exempt from paying the

recertification fee. Members holding a Judicial Administration certification are not exempt from paying the recertification fee.

- c. **Revocation.** If a member fails to pay the required fees, then the certification for the specialty area will be revoked.
- d. **“Hold” Status.** If TBLS places a member on a “hold” status, the member must complete annual reporting and pay the annual fee each year the member remains on hold; and if eligible for recertification, must complete the recertification tasks described in Section I, C, 2 until TBLS makes a final determination regarding his or her certification status.

3. Extension to Deadline

Any deadline may be extended by TBLS in its discretion for a period of up to 30 days upon written request showing good cause by the member.

F. FEES

Failure to timely pay any required fee will result in revocation of certification, or denial of certification or recertification. TBLS may adjust any fees as it deems appropriate, in its sole discretion.

G. ALTERATION OF FORM

As stated in Section I, A, any TBLS forms created for the TBLS administrative processes are not to be altered. If a member alters a TBLS form, then TBLS in its sole discretion may revoke the member’s certification or deny the applicant’s application for certification or recertification, as TBLS may determine. TBLS will decide whether an alteration of a form results in the omission, misrepresentation, or incomplete disclosure of a certification requirement.

H. PROCESSING

- 1. Upon receipt of an application or annual reporting form, TBLS will:
 - a. In the case of an application, assign an appropriate file number.
 - b. Receive and deposit any required fee.
 - c. Review the application or annual report for completeness.
 - d. Notify the applicant for certification or recertification of any necessary information that has not been provided on the application or notify the member of any necessary information that has not been provided on the annual reporting form.
- 2. The AC for each specialty area will review each application and make recommendations to TBLS for approval or denial of an application.
- 3. Following receipt of the AC’s review and recommendation, TBLS will make the final determination regarding the approval or denial of an application.
- 4. Following the TBLS final determination, TBLS will notify the applicant for certification or recertification as follows:
 - a. An approved certification applicant will be sent exam details and payment information.
 - b. An approved recertification applicant will be sent a seal to update his or her certificate of special competence.
 - c. An applicant who is denied will be notified of the decision and the procedure for filing a petition for reconsideration.
 - d. TBLS will notify the applicant at such time when it makes a final determination on his or her certification status.
 - e. TBLS will notify and advise a member who has been placed on a “hold” status by TBLS that he or she may not use the “Board Certified” designation while on “hold” status.

I. CONFIDENTIALITY

TBLS treats all materials and information received or used by TBLS in connection with the certification and annual reporting and recertification tasks, including, but not limited to, TBLS forms and Statements of Reference, as confidential and not subject to disclosure.

J. RETENTION

TBLS destroys inactive files after three years from the date the file is closed.

K. INACTIVE STATUS

- 1. Who May Qualify for Inactive Status.** A member may request to be placed on inactive status in the circumstances listed below. The member requesting inactive status should state in the request that:
 - a.** Maintaining active status with TBLS would create an undue hardship upon the member due to illness or disability to themselves or a family member, or
 - b.** There exists other mitigating circumstance confronting the member, or
 - c.** The member's practice is interrupted due to government service, including active-duty military service, or other employment that precludes the member from practicing law in his or her specialty area.
- 2. Request for Inactive Status.** A member who desires to be placed on inactive status should submit a written request for inactive status to TBLS explaining in detail the reasons supporting the request for inactive status.
- 3. Consideration of Request for Inactive Status.** All requests for inactive status will be determined by TBLS on a case-by-case basis. In considering a request, TBLS may request the member to supply additional information.
- 4. Term.** If approved, TBLS will grant inactive status for a term not to exceed one year. TBLS may impose requirements on the inactive service. If a member seeks inactive status beyond one year, the member must submit a written request each year.
- 5. Requirements.**
 - a.** During the period of inactive status, TBLS will waive the following requirements for the member to maintain his or her certification:
 - (i) Maintain a full-time work schedule in the practice of law.
 - (ii) Maintain a minimum percentage of substantial involvement in the specific specialty area for which the member is certified.
 - b.** During the period of inactive status, the member will be subject to the following requirements:
 - (i) May not represent themselves as a board-certified member.
 - (ii) Pay all required annual dues and fees, unless waived by TBLS.
 - (iii) Remain an active member in good standing with the State Bar of Texas.
- 6. Reinstatement of Certification to Active Status.** When the member wishes to return from inactive status to active status, the member will provide TBLS:
 - a.** Written notice to TBLS of the member's desire to return his or her certification to active status,
 - b.** The notice will be provided to TBLS no less than 60 days prior to the expiration of the inactive status designation, and
 - c.** The notice must include proof of compliance with all applicable TBLS Standards and Rules.

- d. TBLS will decide whether to approve a request for reinstatement of a certification to active status after considering the proof submitted by the attorney. If the inactive member allows his or her inactive status designation to expire and has not provided TBLS with the required written notice of his or her desire to return to an active status or failed to provide sufficient proof of compliance with all applicable TBLS Standards and Rules, then the inactive member's certification will be subject to revocation.
- 7. **Application for Recertification.** A member with an inactive status whose certificate comes due for recertification may apply for recertification during the inactive status period. If TBLS approves the application, the certification of the member will be renewed for an additional five years, but the member will continue inactive status until reinstatement of his or her certification to active by TBLS subject to Section I, K, 4.

SECTION II

DISCLOSURE OF CONDUCT

A. CONDUCT TO BE REVIEWED

TBLS will review findings of professional misconduct as defined in Rule 8.04 of the Texas Disciplinary Rules of Professional Conduct and findings of judicial misconduct by any authorized disciplinary authority, including a court, that involves a certification applicant or board-certified member. Such findings include, but are not limited to, the following:

- (i) A disciplinary sanction, which includes disbarment, resignation in lieu of discipline, indefinite disability suspension; suspension for a specific period of time, probated suspension, public reprimand, or private reprimand;
- (ii) A sanction, censure, order to retire, or removal from a judicial office for violating the Texas Code of Judicial Conduct or other judicial ethical standards;
- (iii) A pending investigation or proceeding for professional misconduct;
- (iv) A pending investigation or proceeding for judicial misconduct;
- (v) A conviction of a serious crime as defined in Part I-Section III, B of the Standards; and
- (vi) A finding of ineffective assistance of counsel.

B. CERTIFICATION APPLICANT

- 1. A certification applicant will disclose any finding described in Section II, A that concluded prior to the filing of the application and any pending investigation or proceeding for professional misconduct and any pending investigation or proceeding for judicial misconduct.
- 2. A certification applicant will submit disclosure of conduct as part of the application along with the pertinent documents and any explanation he or she wishes to be considered in the review of the conduct issue. A certification applicant will provide any additional information requested by TBLS concerning a finding described in Section II, A.
- 3. A certification applicant has a continuing duty during the application process to report any finding described in Section II, A within 30 days of the conclusion or notification of any pending investigation or proceeding of professional conduct and any pending investigation or proceeding for judicial misconduct. The certification applicant will report disclosure of conduct to TBLS and submit the pertinent documents and any explanation he or she wishes to be considered in the review of the conduct issue. A certification applicant will provide any additional information requested by TBLS concerning a finding described in Section II, A.

4. Failure to disclose a finding described in Section II, A within the applicable 30-day period or failure to provide any additional information requested by TBLS concerning such finding may be a basis for denial of certification.
5. After review, TBLS:
 - a. Will deny certification to an applicant who is disbarred, has resigned in lieu of disbarment, is suspended from the practice of law for any period of time, has been ordered to retire or removed from a judicial office, or has been convicted of a serious crime.
 - b. May deny certification to an applicant who is subject to any of the findings described in Section II, A, or failure to provide any additional information requested by TBLS concerning such finding.

C. BOARD CERTIFIED MEMBER

1. A member must disclose any finding of professional misconduct or judicial misconduct described in Section II, A, within 30 days of conclusion or notification of any pending investigation or proceeding for professional misconduct and any pending investigation or proceeding for judicial misconduct. A member will report disclosure of conduct to TBLS and submit the pertinent documents and any explanation he or she wishes to be considered in the review of the conduct issue. A member will provide any additional information requested by TBLS concerning a finding described in Section II, A.
2. Failure to disclose a finding described in Section II, A within the applicable 30-day period or failure to provide information requested by TBLS concerning such finding may result in revocation or suspension of certification or imposition of a “hold” status of a member’s certification.
3. After receiving notification of any finding described Section II, A, TBLS will:
 - a. Revoke the certification of a member who has been disbarred, has resigned in lieu of discipline, has been ordered to retire, or removed from a judicial office, or has been convicted of a serious crime.
 - b. Place a member who has received an active suspension from the practice of law or judicial office for a specific period of time on a TBLS “hold” status (regardless of whether an appeal is pending) which prohibits the member from using the “Board Certified” designation.
 - c. Review the certification of a member who has received any findings as described in Section II, A to determine appropriate action on its part.

D. REVIEW/HEARING PROCESS FOR CONDUCT ISSUES

TBLS will review findings of professional misconduct and judicial misconduct of a member in the following manner:

1. **AC Review.**
 - a. The appropriate AC or its subcommittee will review a finding of professional misconduct or judicial misconduct and make a recommendation to TBLS regarding suitable action to take on the member’s certification.
 - b. The AC may request additional information or ask them to meet personally with the member should they feel it necessary to make an appropriate recommendation. TBLS may consider when making its final decision the member’s failure to respond to a request for information or interview.
 - c. The AC may recommend to TBLS that the following determinations be made:
 - (i) No action be taken;

- (ii) The member's certification be revoked or suspended (with all or part of the suspension being probated) and/or placed on a TBLS "hold" status for further review; or
 - (iii) Other action appropriate under the circumstances.
- 2. TBLS Review.**
 - a. TBLS will review the AC's recommendation concerning a finding of professional misconduct or judicial misconduct received by a member. TBLS may accept the AC's recommendation or make a different determination.
 - b. TBLS will notify the member of their decision regarding the conduct issue. If the member does not agree with the TBLS decision, the member must request a review by TBLS of its decision by submitting a petition for reconsideration of the TBLS decision within 10 days from the date of the receipt of notice. The member's petition for reconsideration will state the reasons the member believes the TBLS decision is in error and whether a hearing is requested.
 - c. A \$50 fee is required when the petition for reconsideration is filed.
 - d. If the member does not submit a petition for reconsideration within 10 days from the date of receipt of notice, the TBLS decision will become final.
 - e. The entire TBLS or a committee appointed by the TBLS Chair will review a member's petition for reconsideration.
 - f. The recommendation regarding the member's conduct issue must be submitted to the entire TBLS for final determination. In making the final decision, TBLS will not be bound by the recommendation under consideration but may make a determination as it deems appropriate based on any evidence or argument presented or obtained during the appeal process. TBLS will make a final determination within a reasonable time after the review of the petition for reconsideration and the hearing concerning the petition. TBLS will notify the member in writing of the final determination.
 - g. Only arguments, authorities and evidence submitted in writing by the date of the TBLS hearing will be considered on appeal to the SBOT Board of Directors.

SECTION III PEER REVIEW

A. TYPES OF REFERENCES

- 1. An applicant will submit names and addresses of attorneys and judges who can attest to his or her competence in a specialty area, in accordance with the Standards. Excluded from suitable references are partners, shareholders, employees or associates within the current firm or agency of the applicant.
- 2. References for judicial applicants will be selected by TBLS and not submitted by the judicial applicant.
- 3. A certification applicant described in Section I, C, 1,c (ii) is not required to submit references unless TBLS deems it necessary.
- 4. TBLS may solicit additional references from attorneys or judges to attest to the applicant's competence.
- 5. The maximum of 15 references may be submitted, unless TBLS determines otherwise.

6. TBLS will furnish a Statements of Reference form to solicit comments from reference respondents on behalf of the applicant. The Statement of Reference form may be completed online which is provided directly to TBLS or TBLS will furnish a form (paper copy sent by mail or email) which must be sent directly back to TBLS. TBLS will treat all Statements of Reference as confidential.

B. EVALUATION OF REFERENCES

TBLS will consider the Statements of Reference received for an applicant to determine whether the applicant has demonstrated sufficient knowledge, skills, and abilities in the specialty area, and whether the applicant's conduct conforms to that required by the TDRPC and the Texas Code of Judicial Conduct or other judicial ethical standards.

1. **Minimum Number of Favorable References.** A favorable reference is one in which the reference:
 - (i) Works in the specialty area;
 - (ii) Is familiar with the applicant's work in the specialty area;
 - (iii) Based on a scale of 1-5, rates the applicant's skills and knowledge of the specialty area at an average of 3.0 or greater; and
 - (iv) Affirms that the applicant should be certified in the specialty area.

TBLS may approve an applicant with fewer favorable references than those specified in the applicable portion of Section III, B, 1, a-b only on a finding that an applicant's practice is limited because of geographical location, nature of practice, or similar reasons.

2. **Certification.**
 - a. A certification applicant will submit the names and addresses of persons with whom the applying attorney has had dealings in the three years immediately preceding the application. Judicial certification applicants are prohibited from submitting references as provided in Section III, A, 2.
 - b. A certification applicant in the specialty areas of Aviation Law (applying with trial experience), Criminal Law, Civil Trial Law, Family Law, Juvenile Law, and Personal Injury Trial Law will require a minimum of 5 favorable references.
 - c. A certification applicant in Aviation Law (applying without trial experience) and any other specialty area not listed in Section III, B, 2, b will require a minimum of three favorable references.
3. **Recertification.**
 - a. A recertification applicant will submit the names and addresses of persons with whom he or she has had dealings since the most recent 5-year period of certification. A Judicial Administration recertification applicant is prohibited from submitting references as provided in Section III, A, 2.
 - b. A recertification applicant in any specialty area will require a minimum of three favorable references.
4. **Negative or Adverse Responses.** TBLS will seek additional information on an applicant at any time during the year of certification or recertification if:
 - (i) Two references indicate that the applicant does not demonstrate special competence in the specialty area,
 - (ii) The issue of the applicant's special competence in the specialty area is raised, or
 - (iii) The applicant has failed to conform his or her conduct to the TDRPC, the Texas Code of Judicial Conduct, or other judicial ethical standards.

TBLS may seek additional information even if the applicant has received the requisite number of favorable references. If the applicant's references provide significant negative responses, TBLS will investigate further to assure that they are related to special competence or failure to abide by the TDRPC, the Texas Code of Judicial Conduct, or other judicial ethical standards, and not to personality conflicts or other factors irrelevant to special competence. Reasonable efforts will be made to contact the source or sources of negative or adverse comments and reasonable efforts will be made to obtain independent verification of the negative or adverse comments. Whenever possible, continuing, and exclusive reliance will not be placed on the same source of information in evaluating various applicants from any given geographical area.

5. **Denial Based on Statements of Reference.** TBLS may deny certification or recertification to an applicant if he or she receives fewer than the requisite number of favorable reference responses or based on substantial and credible information received in the peer review process that reflects that the applicant does not demonstrate special competence. TBLS will treat all Statements of Reference as confidential.

SECTION IV CONTINUING LEGAL EDUCATION

A. CLE REQUIREMENT

For TBLS purposes, CLE is calculated on a calendar year basis (January 1 through December 31). Refer to the Standards, Part I-General Requirements, Section V.

1. **Certification.** A certification applicant will complete CLE activities in the specialty area within the three years immediately preceding application through December 31 of the year the application is submitted.
2. **Recertification.**
 - a. A recertification applicant (other than a recertification in Judicial Administration) will complete CLE activities in the specialty area by December 31 of each 5th year of certification. A member may carry forward CLE credit hours completed during a recertification period in excess of the 100-hour requirement to a following recertification period up to a maximum of 15 credit hours.
 - b.
 - (i) A Judicial Administration recertification applicant must complete 105 hours of CLE by December 31 of each 5th year of certification. A member may carry forward CLE credit hours completed during a recertification period in excess of the 105-hour requirement to a following recertification period up to a maximum of 15 credit hours.
 - (ii) A Judicial Administration recertification applicant must complete 21 hours of CLE in the specialty area each year of certification pursuant to Government Code 82.101(d).

B. FORMAL CLE PROGRAMS

1. **Approval Required.** CLE credit in the specialty area will be given for qualifying CLE as described in the Standards, Part I-General Requirements, Section V, B.

2. **Criteria for Approval of Educational Programs.** Qualifying CLE is required to satisfy the following requirements:
 - a. **Content.** The content of a CLE program may include a broad or narrow range of subjects in the specialty area or related areas.
 - b. **Level of Curriculum.** A CLE program must not be designed or conducted principally as a “review” course to prepare an applicant for the written exam but should be directed towards attorneys who meet the law practice and experience requirements as set forth in the Standards. In determining whether the program is so designed, the type of advertising employed by the sponsor will be considered.
 - c. **Instructors.** The instructors for a CLE program are required to be qualified experts in the area in which he or she is teaching.
3. **Proof of Completion.** An applicant or member is obligated to report CLE activities to the MCLE office of the SBOT so it can be entered into his or her MCLE record. An applicant or member seeking to claim credit for courses not reported to MCLE or for whom MCLE does not maintain records will provide the course information to TBLS who will then determine if credit should be allowed for the applicable specialty area(s).

C. SELF-STUDY

The requirements for self-study in the application are:

- (i) An applicant or member could receive a maximum of five hours self-study credit in a specialty area each year.
- (ii) An applicant or member may request approval of self-study credit by submitting details of the activity in the specialty area to TBLS so that this credit may be added to the applicant’s or member’s TBLS CLE Summary.
- (iii) Reporting “general self-study” hours to MCLE is insufficient information for TBLS approval.

D. OTHER APPROVED CLE ACTIVITIES

1. CLE credit may be earned through teaching or participating in a Texas SBOT accredited CLE activity. TBLS may grant CLE credit for preparation time and presentation time, including preparation credit for repeated presentations.
2. Credit may be earned through legal research-based writing upon application to the Committee provided the activity:
 - (i) Produced material published or to be published in the form of an article, chapter, or book written, in whole or in part, by the applicant,
 - (ii) Contributed substantially to the continuing legal education of the applicant and other attorneys, and
 - (iii) Is not done in the ordinary course of the practice of law, the performance of regular employment, or as a service to clients.
3. A member who holds a full-time faculty position in any law school approved by the American Bar Association may be credited as fulfilling the requirements of this section. A member who holds a part-time faculty position in any such law school may claim participatory credit for the actual hours of class instruction time not to exceed 12 hours per compliance year.
4. TBLS will consider mediation, arbitration, or collaborative law courses on a case-by-case basis for credit towards a specialty area.

SECTION V EXAMINATION

A. PLACE OF EXAM

TBLS will set the date and location for the exam for a certification applicant.

B. EXAM FEE

The certification applicant will submit the applicable exam fee(s) after receiving notification by TBLS of his or her eligibility to take the exam. The full exam fee must be paid for each exam taken. TBLS may adjust the exam fee, as it deems appropriate.

C. SPECIAL EXAM REQUESTS

1. If a certification applicant is unable to take the exam on the date the exam is regularly administered, TBLS may, in its sole discretion, schedule an alternative exam date.
2. **Examinees with Disabilities.**
 - a. The process of conducting each specialization examination will be administered to all eligible certification applicants in a reasonable manner, while maintaining the integrity of the examination. TBLS will provide facilities that are reasonably accessible, including those certification applicants having disabilities.
 - b. Any certification applicant who desires special testing accommodations based upon a disability must complete the TBLS Application for Testing Accommodations.
 - c. The TBLS Application for Testing Accommodations must be accompanied by written proof evidencing the existence of the disability. Statements from licensed physicians or a professional specialist that specifically set forth the physical, mental, or emotional handicap or disability and the relationship between the disability and the inability to take the examination under standard conditions will be required. TBLS may require additional information or evidence from the certification applicant and may, at its option, seek professional evaluation of such data. The certification applicant will be responsible for the cost of obtaining documented medical evidence and other required information.
 - d. After considering the application and the evidence submitted, TBLS will determine what reasonable special testing accommodations will be granted.
 - e. TBLS deliberations and determinations regarding testing accommodations for the specialization examination will be closed to the public and associated records are confidential. However, this does not limit TBLS's option under Section V, C, 2, c to seek professional evaluation of any confidential information supplied by certification applicants.

D. CONFIDENTIALITY

TBLS treats all exams as confidential. A certification applicant will not divulge the contents of an exam to another person. Any violation of the confidentiality of an exam will result in denial, suspension, or revocation of certification.

E. IMPROPER EXAM CONDUCT

If TBLS determines that a certification applicant engaged in improper or unethical conduct during the exam process, the certification applicant will automatically be given a failing score on the exam. The certification applicant will be prohibited from filing any future application for a period of three years following the incident and must secure TBLS approval prior to submitting any future application.

F. EXAM FORMAT AND SCORING

The exam for each specialty area is 6 hours in length, consisting of a 3-hour Part I (morning session) and a 3-hour Part II (afternoon session). Part I is three essay questions, and Part II is approximately 100 multiple-choice questions. Part I is worth 300 points, and Part II is worth 200 points. The maximum possible score is 500 and a scaled score of 350 is the minimum passing score.

G. PASSING THE EXAM

1. **Notification.** TBLS will notify a certification applicant who passes the exam but will not provide the exam score.
2. **Retention.** TBLS will destroy the exam books of a certification applicant who passed the exam after the grading is finalized.

H. FAILURE OF EXAM

1. **Notification.** A certification applicant who fails the exam will be notified of his or her exam score and the required passing score.
2. **Regrade.** Exam grades within 10 points from the passing grade will be automatically regraded.
3. **Review/Appeal.** A certification applicant who fails the exam may not review his or her exam. A certification applicant may not appeal the failure of the exam.
4. **Retention.** The exam books of a certification applicant who failed the exam will be destroyed after one year.

SECTION VI DENIAL OF CERTIFICATION OR RECERTIFICATION

A. GROUNDS FOR DENIAL

1. **Certification.** A certification applicant may be denied based on the following reasons:
 - a. Failure to be licensed to practice law for five years.
 - b. Failure to be an active practicing member in good standing of the SBOT with an office in Texas as described in the Standards, Part I-General Requirements, Section II, A, 2.
 - c. Receipt of any disclosure of conduct as described in the Standards, Part I-General Requirements, Section III.
 - d. Receipt of negative information from Statements of Reference or an insufficient number of favorable references.
 - e. Failure to meet the special competence or substantial involvement requirements.
 - f. Failure to furnish information requested by TBLS or misrepresentation of any material fact to TBLS.
 - g. Failure to pay the application filing fee.

- [illegible]

An applicant will be provided with notice of the denial of his or her certification or recertification advising the applicant with as much specificity as possible the reason(s) for such denial and will inform the applicant of the right to petition for reconsideration of the decision to TBLS. Refer to Section VIII, A for the TBLS petition for reconsideration and hearing process.

A. ADMINISTRATIVE REVOCATION WITH REMEDIAL PROVISIONS

B. ADMINISTRATIVE REVOCATION, SUSPENSION, OR TBLS ACTION IN OTHER SITUATIONS

- 1. Reasons for Revocation, Suspension, or Other TBLS Action.** TBLS may revoke or suspend a member's certificate of special competence or take other appropriate action for the following reasons:
 - a. Failure to meet the substantial involvement requirements in his or her specialty area for two consecutive years.
 - b. Failure to comply with the TBLS Standards or Rules.
 - c. Failure to comply with TDRPC or Texas Code of Judicial Conduct.
- 2. Revocation, Suspension, or Other TBLS Action Process.**
 - a. A member who has been revoked, suspended, or who has received other TBLS action under this section will be notified by TBLS of the basis for the proposed revocation, suspension, or other action and allowed 30 days from receipt of such notice to provide TBLS with a written explanation.
 - b. TBLS will review the explanation, make a final determination on the revocation, suspension, or other action, and notify the member of the result.
 - c. A member's whose certification is revoked, suspended, or who has received other TBLS action under this section is not eligible for reinstatement but must reapply and requalify for certification as directed under Section VIII, D.

C. NON-ADMINISTRATIVE REVOCATION

- 1. Reasons for Revocation.** TBLS will revoke a member's certificate of special competence when it discovers that:
 - a. The certificate was issued contrary to the Rules.
 - b. The certificate was issued to a member who was not eligible to receive a certificate of special competence or who made any misrepresentation, misstatement, or omission of material fact to TBLS.
 - c. The certificate holder failed to abide by the Rules covering the program promulgated by TBLS as amended from time to time.
- 2. Non-Administrative Revocation Petition for Reconsideration Process.** A member whose certification is revoked, suspended, or who has received other TBLS action due to non-administrative reasons (other than situations mandating automatic revocation listed in Section VII, C, 1 above) will refer to Section VIII, A for the petition for reconsideration process to TBLS.

**SECTION VIII
PETITION FOR RECONSIDERATION TO TBLS**

A. PETITION FOR RECONSIDERATION / HEARING PROCESS

- 1. Filing Requirements for Petition for Reconsideration.**
 - a. An applicant or member may petition for reconsideration of the denial of his or her certification or recertification, revocation of certification, or disclosure of conduct by submitting a petition for reconsideration to TBLS within 10 days after receipt of the notice.

The petition for reconsideration will state as specifically as possible the reasons the applicant or member believes the decision of TBLS was in error. The petition for reconsideration should also state whether the applicant or member wishes TBLS to consider only the petition for reconsideration or request for a hearing before TBLS (in person or by video conference).

- b.** A \$50 fee is required when the petition for reconsideration is filed.
- 2. Notice of Hearing.** TBLS will notify the applicant or member at least 10 days in advance of the date on which the petition for reconsideration will be reviewed or the hearing will take place. If the applicant or member requests a hearing, TBLS will notify the applicant or member of the time, place, and manner of the hearing.
- 3. Hearing Panel.** At the discretion of the TBLS Chair, the hearing may be considered before either the full TBLS or a committee appointed by the Chair. The committee will make a recommendation to TBLS for a final decision.
- 4. Representation of Counsel.** An applicant or member may be represented by counsel at a hearing.
- 5. Evidence.** Any arguments, authorities, or evidence the applicant or member wishes TBLS to consider must be provided to TBLS no later than the date specified in the notice of denial or revocation. Any written information submitted after the designated date will not be considered by TBLS and only the arguments, authorities, and evidence timely presented to TBLS will be considered on a subsequent appeal to the SBOT Board of Directors. The applicant or member and TBLS may present testimonial evidence at a hearing. Any relevant testimony will be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs, regardless of any common law or statutory rule that might make the admission of such evidence over objection improper in civil actions. All Statements of Reference received by TBLS will be confidential and will not be disclosed.
- 6. Burden of Proof.** The applicant or member will prove by a preponderance of evidence that the denial, revocation, or disclosure of conduct should be overturned.
- 7. Final Decisions.** TBLS will make the final decision on a petition for reconsideration. The committee will make a recommendation after hearing to TBLS for final decision. TBLS will decide within a reasonable time after the hearing or its review of a petition for reconsideration and will thereafter promptly notify the applicant or member of its decision.

B. RECUSAL

An AC and TBLS member will recuse himself or herself from any and all participation in consideration of an applicant or member, or from attempting to influence others with respect to an applicant or member in the following circumstances:

- 1. Reasons for Recusal.**
 - a.** The AC or TBLS member is a current or former law partner or associate of the applicant or member.
 - b.** The AC or TBLS member or his or her spouse is related to the applicant or member by consanguinity or affinity within the third degree according to the rules of civil law.
 - c.** The AC or TBLS member has personal/professional bias or prejudice concerning the applicant or member that would prevent him or her from fairly evaluating all the evidence and information concerning the qualification of the applicant or member.
 - d.** The AC or TBLS member has appeared as an expert witness or acted as a consultant or has been consulted with reference to an actual or threatened lawsuit for or against the applicant or member for malpractice.

2. Recusal Process.

- a. Immediately disclose to the full TBLS or AC that the TBLS or AC member has a disqualifying interest but need not state the reasons, therefore.
- b. Withdraw from any participation in the matter of the applicant or member.
- c. Refrain from attempting to influence another AC or TBLS member.
- d. Refrain from voting upon the applicant or member.

- 3. Recusal Request.** Any applicant or member who is aware of circumstances in Section VIII, B, 2 (a) may request in writing that an AC or TBLS member be recused.

C. DISQUALIFICATION

If an AC or TBLS member does not voluntarily recuse himself or herself, the Chair of AC or Chair of TBLS will, upon becoming aware of factors that indicate a conflict of interest as described above, determine whether such AC or TBLS member be disqualified.

D. REAPPLICATION FOR CERTIFICATION

1. A certification applicant whose application has been denied, a recertification applicant who has been denied recertification, or a member whose certification has been revoked may submit a new application the year following such notification by TBLS.
2. Upon reapplication, a certification applicant will demonstrate compliance with all requirements for certification in the year of reapplication and will pay the application filing fee.
3. A member who resigned his or her certificate of special competence, a recertification applicant who was denied recertification, or a member's whose certificate of special competence was revoked may reapply for certification and will demonstrate compliance with the certification requirements in the year of reapplication and will pay the application filing fee.

SECTION IX APPEAL TO THE STATE BAR OF TEXAS

A. FILING REQUIREMENTS

1. An applicant eligible to appeal a TBLS decision of denial of certification or recertification, or a member who is subject to revocation, or disagrees with the TBLS action regarding disclosure of conduct will file a petition for review with the Executive Director of the SBOT within 10 days following receipt of notification by TBLS of its decision and will provide a copy to the Executive Director of TBLS.
2. The petition need not be in any particular format but will set forth as specifically as possible the reasons the applicant or member feels the decision of TBLS was in error.

B. RESPONSE

Within 10-days after receiving the petition for review by TBLS, the Executive Director of TBLS will file an answer with the Executive Director of the SBOT.

C. HEARING

1. The SBOT Board of Directors may refer the petition for review to an appropriate Committee of the Board. The reviewing Board Committee will review the petition and response and may allow oral argument by the parties. The Committee will only consider evidence submitted at the TBLS hearing.
2. The Committee will determine whether substantial evidence exists to uphold the TBLS decision. The burden of proof will be on the applicant or member filing the petition for review.

D. DECISION

The Committee will report on its determination as to whether substantial evidence exists to the SBOT Board of Directors. The Board of Directors' decision on the matter will be final. Within 15 days of that action, the Executive Director of the SBOT will notify the applicant or member and the Executive Director of TBLS of the Board's decision.