

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its One Hundred Ninetieth Report to the Court of Appeals, transmitting thereby proposed amendments to Rule 16-407 and to Rules 1, 10, 11, 13, and 19 of the Rules Governing Admission to the Bar of Maryland.

The Committee's One Hundred Ninetieth Report and the proposed Rules changes are set forth below.

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before November 16, 2015 any written comments they may wish to make to:

Sandra F. Haines, Esq.
Reporter, Rules Committee
2011-D Commerce Park Drive
Annapolis, Maryland 21401

Bessie M. Decker
Clerk

Court of Appeals of Maryland

October 16, 2015

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Lynne A. Battaglia
The Honorable Clayton Greene, Jr.
The Honorable Sally D. Adkins
The Honorable Robert N. McDonald,
The Honorable Shirley M. Watts
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its One Hundred Ninetieth Report, and recommends that the Court adopt the amendments to Bar Admission Rules 10, 11, 13, and 19 and Rule 16-407 set forth in this Report.

These proposals deal principally with the requirement in current Rule 11 that, as a pre-condition to admission to the Bar of Maryland, candidates must complete a professionalism course now conducted by the Maryland Professionalism Center. Rule 11 (d) sunsets that requirement effective January 1, 2016 and requires the Court to appoint a committee to make recommendations as to whether the requirement should be extended beyond that date.

The Court appointed such a committee (work group) chaired by Judge Clayton Greene, Jr., which, on September 28, 2015, filed a Report with the Court recommending that the professionalism course as currently administered not be continued, but that, in its place, each candidate, as a pre-condition to admission, be required (1) to achieve a qualifying score on the Multistate Professional Responsibility Examination ("MPRE") administered by the National Conference of Bar Examiners, and (2) to participate in an on-line orientation program designed to impart information regarding certain core requirements established by Rules of the Court or by statute. On October 6, 2015, the Court approved

those recommendations and requested the Rules Committee to draft Rules to implement them.

Rules consistent with that request were drafted and presented to the Rules Committee at its meeting on October 9, 2015. Donald B. Tobin, Dean of the University of Maryland School of Law, speaking for himself and for Ronald Weich, Dean of the University of Baltimore Law School, presented to the Committee their objection to the MPRE requirement and the basis for their objection. Their view, in a nutshell, was that the MPRE, which is a multiple choice examination, is not a good tool from a pedagogical perspective, does not fairly test what attorneys should know about professionalism, and is just another hurdle for law students who already have enough hurdles to overcome. A majority of the members of the Committee were persuaded by Dean Tobin's presentation and successfully moved that the Committee recommend to the Court that candidates for admission not be required to take or achieve a qualifying score on the MPRE.

Because the Court requested the Committee to draft and present to the Court Rules designed to implement the recommendations of the work group that had been approved by the Court, including achievement of a qualifying score on the MPRE, such Rules are submitted with this Report in compliance with the Court's request. They are presented as Alternative A. Submitted as Alternative B are Rules consistent with the Committee's recommendation that the MPRE not be required.

There is one issue that was mentioned during the work group discussions, but not resolved - whether out-of-State attorneys who are admitted under Rule 13 should be required to take and achieve a qualifying score on the MPRE.

The view of the Rules Committee is that, even if the MPRE is to be required under Rule 11, it should not be required for admission under Rule 13. Given that the MPRE is required for admission in 48 States and the District of Columbia, it is likely that most of the out-of-State attorneys -- at least those who were admitted within the past ten years -- would already have taken the MPRE prior to their admission in the other State. Because a minimum of five years of active practice in another State is required for admission under Rule 13, however, it also is likely -- indeed fairly certain -- that their qualifying scores would not have been on a test given within three years before taking the Maryland attorney's examination, and, under the work group's recommendation, the scores therefore would not count. In light of the other requirements of Rule 13, including Board consideration of the attorney's professional reputation among lawyers and judges in the other State, the Committee

believes that it is unnecessarily burdensome to require these experienced attorneys to take and pass the MPRE, possibly for a second time.

The Rules to implement the work group's recommendations approved by the Court (Alternative A) consist of:

- An amendment to Bar Admission Rule 1 to add a definition of "MPRE";
- A complete rewriting of Bar Admission Rule 11 to delete the requirement of the current professionalism course and substitute the requirements of (1) a three-hour on-line orientation program (section (a)), and (2) the MPRE (section (b));
- Conforming amendments to Bar Admission Rules 10 and 19;
- An amendment to Bar Admission Rule 13 that would require out-of-State attorneys to complete the orientation program provided for in Rule 11 but not require them to take the MPRE;
- Amendments to Rule 16-407, deleting the requirement that the Professionalism Center administer a professionalism course, providing that funding for the Center shall be solely as provided in the judicial budget, and deleting references to the Executive Director - a position that is no longer funded; and
- Providing effective dates for the MPRE and Orientation Program requirements.

The Rules presented as Alternative B:

- Make no amendment to Bar Admission Rule 1;
- Rewrite Bar Admission Rule 11 but omit any mention of the MPRE;
- Make conforming amendments to Bar Admission Rules 10, 13, and 19;
- Make the same amendments to Rule 16-407 as noted above with respect to Alternative A.

For the further guidance of the Court and the public, following the proposed amendments to each Rule is a Reporter's note describing in further detail the reasons for the proposals.

We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:cdc
cc: Bessie M. Decker, Clerk

MARYLAND RULES OF PROCEDURE
RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 1 by adding a definition of "MPRE,"
as follows:

Rule 1. DEFINITIONS

In these Rules, the following definitions apply, except as expressly otherwise provided or as necessary implication requires:

(a) ADA

"ADA" means the Americans with Disabilities Act, 42 U.S.C. §12101, et seq.

(b) Board

"Board" means the Board of Law Examiners of the State of Maryland.

(c) Court

"Court" means the Court of Appeals of Maryland.

(d) Code, Reference to

Reference to an article and section of the Code means the article and section of the Annotated Code of Public General Laws of Maryland as from time to time amended.

(e) Filed

"Filed" means received in the office of the Secretary of the Board during normal business hours.

(f) MBE

"MBE" means the Multi-state Bar Examination published by the National Conference of Bar Examiners.

(g) MPRE

"MPRE" means the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners.

~~(g)~~ (h) MPT

"MPT" means the Multistate Performance Test published by the National Conference of Bar Examiners.

~~(h)~~ (i) Oath

"Oath" means a declaration or affirmation made under the penalties of perjury that a certain statement or fact is true.

~~(i)~~ (j) State

"State" means (1) a state, possession, territory, or commonwealth of the United States or (2) the District of Columbia.

Source: This Rule is derived from former Rule 1.

REPORTER'S NOTE

The proposed amendment to Bar Admission Rule 1 adds a definition of "MPRE", the "Multistate Professional Responsibility Examination," to correspond to the proposed revision of Bar Admission Rule 11.

MARYLAND RULES OF PROCEDURE
RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 10 to conform to the proposed revision of Bar Admission Rule 11 and to make stylistic changes, as follows:

Rule 10. REPORT TO COURT - ORDER

(a) Report and Recommendations as to Candidates

As soon as practicable after each examination, the Board shall file with the Court a report ~~of~~ containing (1) the names of the ~~successful~~ candidates who successfully completed the bar examination and (2) the Board's recommendation for admission. ~~If proceedings as to the character of a candidate are pending, the~~ The Board's recommendation of that with respect to each candidate shall be conditioned on the outcome of the any character proceedings relating to that candidate and satisfaction of the requirements of Rule 11.

(b) Order of Ratification

On receipt of the Board's report, the Court shall enter an order fixing a date at least 30 days after the filing of the report for ratification of the Board's recommendations. The order shall include the names and addresses of all persons who are recommended for admission, including those who are conditionally recommended. The order shall state generally that all recommendations are conditioned on character approval and

satisfaction of the requirements of Rule 11, but shall not identify those persons as to whom proceedings are still pending. The order shall be published in the Maryland Register at least once before ratification of the Board's recommendations.

(c) Exceptions

Before ratification of the Board's report, any person may file with the Court exceptions relating to any relevant matter. For good cause shown the Court may permit the filing of exceptions after ratification of the Board's report and before the candidate's admission to the Bar. The Court shall give notice of the filing of exceptions to the candidate, the Board, and the Character Committee that passed on the candidate's application. A hearing on the exceptions shall be held to allow the exceptant and candidate to present evidence in support of or in opposition to the exceptions and the Board and, if the exception involves an issue of character, the Character Committee to be heard. The Court may hold the hearing or may refer the exceptions to the Board, the Character Committee, or an examiner for hearing. The Board, Character Committee, or examiner hearing the exceptions shall file with the Court, as soon as practicable after the hearing, a report of the proceedings. The Court may decide the exceptions without further hearing.

(d) Ratification of Board's Report

On expiration of the time fixed in the order entered pursuant to section (b) of this Rule, the Board's report and recommendations shall be ratified subject to the conditions

stated in the recommendations and to any exceptions noted under section (c) of this Rule.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 11.

Section (b) is derived from former Rule 12 a.

Section (c) is derived from former Rule 12 b.

Section (d) is derived from former Rule 12 c.

REPORTER'S NOTE

Amendments are proposed to Bar Admission Rule 10 to provide that, in addition being conditioned on the outcome of character proceedings, the Board's recommendation relating to a candidate is conditioned on satisfaction of the requirements of Rule 11.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 11 by deleting the current Rule in its entirety and by adding new Bar Admission Rule 11, as follows:

~~Rule 11. REQUIRED COURSE ON PROFESSIONALISM~~

~~(a) Course on Legal Professionalism — Development and Approval~~

~~The Chief Judge of the Court of Appeals may designate a unit within the Judicial Branch, or any other qualified person or entity willing to undertake the responsibility, to develop for consideration and approval by the Court the structure and features of a course on legal professionalism, including (1) the course content, (2) recommended faculty and support staff, (3) the times and places at which the course will be given, (4) estimated expenses for conducting the course, (5) a proposed fee, which shall be adequate to meet the estimated expenses, and (6) any other desirable and appropriate feature. The proposal shall require that the course be given at least twice each year, during the period between the announcement of the Bar examination results and the scheduled Bar admission ceremonies next following that announcement, in the number of locations determined from time to time by the Court. In its discretion, the Court may develop the structure and features of the course on its own.~~

~~(b) Course Presentation~~

~~The approved plan shall be implemented as directed by the Court of Appeals.~~

~~(c) Duty to Complete Course~~

~~Before admission to the Bar, an individual recommended for admission pursuant to Rule 10 shall successfully complete a course on legal professionalism approved by the Court of Appeals. For good cause shown, the Court may admit an individual who has not completed the course, on condition that the individual complete the next regularly scheduled course. If the attorney does not successfully complete the next post-admission course, the Court shall enter a Decertification Order prohibiting the individual from practicing law in the State and shall mail, by first class mail, a copy of the order to the individual. Mailing of the copy shall constitute service. The decertification shall remain in effect until the Court, after having received satisfactory proof that the individual has successfully completed the course, enters a Recertification Order that restores the individual to good standing. The Clerk of the Court of Appeals shall send a copy of each Decertification Order and each Recertification Order to the Clerk of the Court of Special Appeals, the Clerk of each circuit court, the Chief Clerk of the District Court, and the Register of Wills of each county.~~

~~(d) Duration of Requirement; Evaluation~~

~~This Rule shall remain in effect until January 1, 2016. Prior to that date, the Court of Appeals shall evaluate the results of the course requirement to determine whether to extend this Rule. The Court of Appeals may appoint a committee consisting of one or more judges, lawyers, legal educators, bar~~

~~association representatives, and other interested and knowledgeable individuals to assist the Court in the evaluation and make appropriate recommendations to the Court.~~

Rule 11. ADDITIONAL REQUIREMENTS FOR ADMISSION

(a) Orientation Program

(1) The Court of Appeals shall appoint a work group of not more than seven individuals to develop and present to the Court for its approval an orientation program for effectively informing candidates of certain core requirements, established by Rules of the Court or other law, for engaging in the practice of law in Maryland.

(2) The program shall include information regarding (A) reporting requirements established by Rules of the Court, (B) obligations to the Client Protection Fund and the Disciplinary Fund established by Rule or statute, (C) Rules governing attorney trust accounts and the handling of client funds and papers, and (D) the Rules of Professional Conduct regarding competence, scope of representation, diligence, communications with clients, fees, confidentiality, conflicts of interest, declining representation, meritorious claims, candor toward tribunals, and law firms.

(3) The program shall be given at least twice a year, in May and in either November or December.

(4) The program shall not exceed three hours in duration. It may include the provision of written materials distributed in a manner determined by the Court but, to the extent practicable, it shall be given in electronic form, so that a candidate may

participate from a remote location, subject to appropriate verification of the candidate's actual participation.

(5) Commencing June 1, 2016, a candidate may not be admitted to the Bar unless (A) prior to admission, the candidate has produced evidence satisfactory to the Board that the candidate satisfactorily participated in the program, or (B) the candidate has been excused from that requirement by Order of the Court of Appeals.

Committee note: The purpose of the orientation program is to assure that newly admitted attorneys are familiar with core requirements for practicing law in Maryland, the violation of which may result in their authority to practice law being suspended or revoked. The program is not intended to take the place of broader programs on professionalism offered by law schools, bar associations, and other entities, in which the Court of Appeals strongly encourages all attorneys to participate.

(b) MPRE

(1) Unless otherwise provided by Order of the Court of Appeals, commencing December 1, 2017, a candidate may not be admitted to the Bar unless the candidate has produced evidence satisfactory to the Board that the candidate has received a qualifying score on the MPRE taken not earlier than three years prior to the date of the first day of the Maryland bar examination on which the admission is based.

(2) The minimum Maryland qualifying score for the MPRE shall be determined by the Board, subject to approval by the Court.

(3) A candidate may take the MPRE whenever and as many times as permitted by the National Conference of Bar Examiners, but a qualifying score will be counted only with respect to an MPRE

taken within the time set forth in subsection (b) (1) of this Rule.

(4) If a candidate has not provided satisfactory evidence of a qualifying score prior to the time the Board makes its report to the Court pursuant to Rule 10, the Board shall not recommend admission. If the candidate provides such evidence after the filing of the Report but prior to the scheduled admission, the Board shall amend its report to recommend admission, unless there is another ground to do otherwise.

Source: This Rule is new.

REPORTER'S NOTE

Current Bar Admission Rule 11, containing provisions pertaining to the course on legal professionalism that prospective new admittees currently are required to complete, is proposed to be deleted.

In proposed new Rule 11, to replace the professionalism course, requirements pertaining to satisfactory completion of an orientation program and, beginning December 1, 2017, the Multistate Professional Responsibility Examination ("MPRE") are added.

As noted in the Committee note following section (a), the purpose of the orientation program is to familiarize new attorneys with core requirements of practicing law in Maryland, the violation of which may result in their authority to practice being suspended or revoked.

The MPRE currently is required for bar admission in forty-eight states and the District of Columbia. Candidates may take the MPRE while still in law school, and many do so. The proposed delayed implementation date of December 1, 2017 will give current law students who will be seeking admission to the Maryland bar a reasonable opportunity to take the MPRE prior to graduation.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 13 to change the tagline of section (p) and to require that the petitioner comply with section (a) of Rule 11, as follows:

Rule 13. OUT-OF-STATE ATTORNEYS

. . .

(p) ~~Required Course on Professionalism~~ Required Orientation Program

A petitioner recommended for admission pursuant to section (n) of this Rule shall comply with Rule 11 (a).

. . .

REPORTER'S NOTE

Rule 13 is proposed to be amended to require that out-of-state attorneys admitted under the Rule complete the orientation program required by Rule 11 (a).

MARYLAND RULES OF PROCEDURE
RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Rule 19 to conform to the proposed revision of Bar Admission Rule 11, as follows:

Rule 19. CONFIDENTIALITY

. . .

(c) When Disclosure Authorized

The Board may disclose:

(1) statistical information that does not reveal the identity of an individual applicant;

(2) the fact that an applicant has passed the bar examination and the date of the examination;

(3) any material pertaining to an applicant that the applicant would be entitled to inspect under section (b) of this Rule if the applicant has consented in writing to the disclosure;

(4) any material pertaining to an applicant requested by
(A) a court of this State, another state, or the United States;

(B) Bar Counsel, the Attorney Grievance Commission, or the attorney disciplinary authority in another state;

(C) the authority in another jurisdiction responsible for investigating the character and fitness of an applicant for admission to the bar of that jurisdiction, or

(D) Investigative Counsel, the Commission on Judicial Disabilities, or the judicial disciplinary authority in another jurisdiction for use in:

(i) a pending disciplinary proceeding against the applicant as an attorney or judge;

(ii) a pending proceeding for reinstatement of the applicant as an attorney after disbarment; or

(iii) a pending proceeding for original admission of the applicant to the Bar;

(5) any material pertaining to an applicant requested by a judicial nominating commission or the Governor of this State, a committee of the Senate of Maryland, or a committee of the United States Senate in connection with an application by or nomination of the applicant for judicial office;

(6) to a law school, the names of persons who graduated from that law school who took a bar examination and whether they passed or failed the examination;

(7) to the Maryland State Bar Association and any other bona fide bar association in the State of Maryland, the name and address of a person recommended for bar admission pursuant to Rule 10;

(8) to each entity selected to give ~~the course on legal professionalism~~ the orientation program required by Rule 11 (a) and verify participation in it, the name and address of a person recommended for bar admission pursuant to Rule 10;

(9) to the National Conference of Bar Examiners, the following information regarding persons who have filed applications for admission pursuant to Rule 2 or petitions to take the attorney's examination pursuant to Rule 13: the applicant's name and aliases, applicant number, birthdate, Law School Admission Council number, law school, date that a juris doctor degree was conferred, bar examination results and pass/fail status, and the number of bar examination attempts;

(10) to any member of a Character Committee, the report of any Character Committee or the Board following a hearing on an application; and

(11) to the Child Support Enforcement Administration, upon its request, the name, Social Security number, and address of a person who has filed an application pursuant to Rule 2 or a petition to take the attorney's examination pursuant to Rule 13.

Unless information disclosed pursuant to paragraphs (4) and (5) of this section is disclosed with the written consent of the applicant, an applicant shall receive a copy of the information and may rebut, in writing, any matter contained in it. Upon receipt of a written rebuttal, the Board shall forward a copy to the person or entity to whom the information was disclosed.

. . .

REPORTER'S NOTE

The proposed amendments to Bar Admission Rule 19 conforms it to the provisions of proposed revised Rule 11.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 400 - ATTORNEYS, OFFICERS OF COURT AND OTHER PERSONS

AMEND Rule 16-407 by deleting thw words "Professionalism Course and" from subsections (c)(7) and (c)(8); by modifying procedures pertaining to budget preparation and to procurement and personnel decisions; by deleting provisions requiring the appointment of an Executive Director and bookkeeper; by deleting current provisions pertaining to funding; by providing that, with a certain exception, funding be solely as provided by the annual judicial budget; and by making stylistic changes, as follows:

Rule 16-407. MARYLAND PROFESSIONALISM CENTER

(a) Existence

There is a Maryland Professionalism Center, which exists as a unit of the Maryland Judiciary.

(b) General Purposes and Mission

The general purposes and mission of the Maryland Professionalism Center are:

(1) to implement the professionalism policies adopted by the Court of Appeals;

(2) to examine ways of promoting professionalism among Maryland judges, judicial appointees and personnel, and attorneys and to encourage them to exercise the highest level of professional integrity in their relationship with each other, the

courts, and the public and fulfill their obligations to improve the law and the legal system; and

(3) to help ensure that the practice of law remains a high calling focused on serving clients, promoting the proper administration of justice, and furthering the public good.

(c) Duties

To carry out its purposes, the Maryland Professionalism Center shall:

(1) develop and refine mechanisms to advance professionalism as an important core value of the legal profession and the legal process;

(2) design a professionalism website and gather and maintain on it information that will serve as a resource on professionalism for judges, judicial appointees and personnel, attorneys, and the public;

(3) monitor professionalism efforts and developments in other States;

(4) monitor and attempt to coordinate professionalism efforts by the various segments of the Maryland legal and judicial community - the Bar, the courts, the law schools, and attorneys and law firms - with particular emphasis on professionalism training in the law schools;

(5) monitor the efforts of the Maryland State Bar Association and other bar associations in the State in carrying out the mandate of the Court of Appeals with respect to the advancement of professionalism;

(6) publicly acknowledge judges, judicial appointees and personnel, and attorneys for particularly commendable acts of professionalism;

(7) administer the New Bar Admittees' ~~Professionalism Course~~ and Mentoring Program; and

(8) recognize the efforts of attorneys engaged in the ~~Professionalism Course~~ and Mentoring Program.

(d) Board of Directors

(1) Membership

The Maryland Professionalism Center shall be governed by a Board of Directors, to consist of (A) a judge of the Court of Appeals, who shall serve as Chair; (B) a judge of the Court of Special Appeals; (C) a judge of a circuit court; (D) a judge of the District Court; (E) the Dean of the University of Maryland School of Law, or the Dean's designee; (F) the Dean of the University of Baltimore School of Law, or the Dean's designee; and (G) seven practicing members of the Maryland Bar, one from each judicial circuit, giving due regard to ethnic, gender, and experiential diversity.

(2) Appointment

The members of the Board shall be appointed by the Chief Judge of the Court of Appeals.

(3) Terms

(A) The judge of the Court of Appeals serves at the pleasure of the Chief Judge;

(B) The term of the other judges shall be three years or during the incumbency of the individual as a judge of the court upon which the individual was serving at the time of appointment, whichever is shorter.

(C) The term of the Deans' designees shall be three years or during the incumbency of the individual in the capacity in which the individual serves at the law school, whichever is shorter.

(D) The term of the other members shall be three years.

(E) Of the initial appointees, four shall be appointed for an initial term of three years, four shall be appointed for an initial term of two years, and four shall be appointed for an initial term of one year, in order that the terms shall remain staggered. At the end of a term, a member may continue to serve until a successor is appointed.

(F) With the approval of the Chief Judge, the Chair may remove a member prior to the expiration of the member's term and appoint from the same category of membership a successor for the remainder of the unexpired term.

(G) (i) Subject to subsection (d) (3) (G) (ii) of this Rule, a member may be reappointed.

(ii) The period of consecutive service by a member other than the Chair shall be not more than two consecutive terms, except that if the member was appointed to fill the unexpired term of a former member, the period of consecutive

service also may include the remainder of the term of the former member.

(4) Secretary

The Chair shall appoint one of the members of the Board to serve as Secretary, at the pleasure of the Chair. The Secretary shall take minutes of the meetings of the Board and perform other duties related to the work of the Board as may be directed by the Chair.

(5) Compensation

The members of the Board shall serve without compensation but shall be reimbursed for expenses in connection with travel related to the work of the Center in accordance with the approved budget of the Center.

(6) Vice Chair; Committees

The Chair may appoint a Vice Chair and committees of the Board.

(7) Meetings

The Board shall meet at least twice each year, at the call of the Chair.

(8) Quorum

Seven members of the Board shall constitute a quorum for the transaction of business.

(9) Duties

The Chair in collaboration with the Board shall ~~(A)~~ provide managerial oversight of the policies, programs, operations, and personnel of the Maryland Professionalism Center

~~and, (B) prepare and transmit to the State Court Administrator and the Chief Judge of the Court of Appeals a proposed annual budget for the Professionalism Center and transmit the proposed budget to the Chief Judge of the Court of Appeals, (C) establish clear standards for the procurement of goods and services needed by the Center and the establishment and maintenance of a bank account for the Center, and (D) retain a certified public accountant to perform an annual audit of the books and records of the Center. Preparation of the budget and all procurement and personnel decisions shall be in conformance with standards and guidelines promulgated by the State Court Administrator.~~

Cross reference: See Rule 16-101 e.

(e) Personnel

(1) Appointment

The Chair of the Board of Directors may ~~shall~~ appoint ~~an Executive Director, a bookkeeper, and such other personnel for~~ the Center as ~~are~~ authorized by in the approved budget of the Center. ~~The Executive Director and the other personnel serve at the pleasure of the Chair.~~

~~(2) Executive Director~~

~~Subject to oversight by the Chair and the Board, the Executive Director is responsible for the day-to-day administration of the Center, implementation of the Board's policies and directions, and performance of the other duties specified in this Rule.~~

~~(3)~~ (2) Advisors

The Chair may invite ~~other~~ persons to provide advice to and participate in the work of the Center. Unless funds are available in the approved budget of the Center for that purpose, service by those persons shall be without compensation.

(f) Funding

~~The Court of Appeals shall provide funding for the Center:~~

~~(1) from the fees paid by new Bar Admittees for the required Professionalism Course;~~

~~(2) commencing July 1, 2013, from the assessment collected from each attorney by the Client Protection Fund on behalf of the Disciplinary Fund, an annual amount from the Disciplinary Fund maintained pursuant to Rule 16-714, not to exceed five dollars; and~~

~~(3) from such other sources as may be provided for in the judicial budget.~~

Effective January 1, 2016, funding for the Center shall be solely as provided in the annual judicial budget, except that funds obtained by the Center from other sources prior to that date may be used as authorized by the Board of Directors for the purposes and duties of the Center set forth in this Rule.

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 16-407 delete the requirement of administering a professionalism course. Amendments also revise provisions pertaining to budgeting, procurement, and personnel so that those functions are in conformance with standards and guidelines promulgated by the State Court Administrator. The currently required appointment of an Executive Director and

bookkeeper is replaced by the general authority of the Board of Directors to appoint personnel as authorized in the approved budget of the Center. The funding mechanism for the Center is changed so that, effective January 1, 2016, funding is solely as provided in the annual judicial budget, except that funds the Center had obtained from other sources prior to that date may continue to be used for the Center's purposes and duties.

MARYLAND RULES OF PROCEDURE
RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 10 to conform to the proposed revision of Bar Admission Rule 11 and to make stylistic changes, as follows:

Rule 10. REPORT TO COURT - ORDER

(a) Report and Recommendations as to Candidates

As soon as practicable after each examination, the Board shall file with the Court a report ~~of~~ containing (1) the names of the ~~successful~~ candidates who successfully completed the bar examination and (2) the Board's recommendation for admission. ~~If proceedings as to the character of a candidate are pending, the~~ The Board's recommendation of that with respect to each candidate shall be conditioned on the outcome of the any character proceedings relating to that candidate and satisfaction of the requirement of Rule 11.

(b) Order of Ratification

On receipt of the Board's report, the Court shall enter an order fixing a date at least 30 days after the filing of the report for ratification of the Board's recommendations. The order shall include the names and addresses of all persons who are recommended for admission, including those who are conditionally recommended. The order shall state generally that all recommendations are conditioned on character approval and

satisfaction of the requirement of Rule 11, but shall not identify those persons as to whom proceedings are still pending. The order shall be published in the Maryland Register at least once before ratification of the Board's recommendations.

(c) Exceptions

Before ratification of the Board's report, any person may file with the Court exceptions relating to any relevant matter. For good cause shown the Court may permit the filing of exceptions after ratification of the Board's report and before the candidate's admission to the Bar. The Court shall give notice of the filing of exceptions to the candidate, the Board, and the Character Committee that passed on the candidate's application. A hearing on the exceptions shall be held to allow the exceptant and candidate to present evidence in support of or in opposition to the exceptions and the Board and, if the exception involves an issue of character, the Character Committee to be heard. The Court may hold the hearing or may refer the exceptions to the Board, the Character Committee, or an examiner for hearing. The Board, Character Committee, or examiner hearing the exceptions shall file with the Court, as soon as practicable after the hearing, a report of the proceedings. The Court may decide the exceptions without further hearing.

(d) Ratification of Board's Report

On expiration of the time fixed in the order entered pursuant to section (b) of this Rule, the Board's report and recommendations shall be ratified subject to the conditions

stated in the recommendations and to any exceptions noted under section (c) of this Rule.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 11.

Section (b) is derived from former Rule 12 a.

Section (c) is derived from former Rule 12 b.

Section (d) is derived from former Rule 12 c.

REPORTER'S NOTE

Amendments are proposed to Bar Admission Rule 10 to provide that, in addition being conditioned on the outcome of character proceedings, the Board's recommendation relating to a candidate is conditioned on satisfaction of the requirement of Rule 11.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 11 by deleting the current Rule in its entirety and by adding new Bar Admission Rule 11, as follows:

~~Rule 11. REQUIRED COURSE ON PROFESSIONALISM~~

~~(a) Course on Legal Professionalism — Development and Approval~~

~~The Chief Judge of the Court of Appeals may designate a unit within the Judicial Branch, or any other qualified person or entity willing to undertake the responsibility, to develop for consideration and approval by the Court the structure and features of a course on legal professionalism, including (1) the course content, (2) recommended faculty and support staff, (3) the times and places at which the course will be given, (4) estimated expenses for conducting the course, (5) a proposed fee, which shall be adequate to meet the estimated expenses, and (6) any other desirable and appropriate feature. The proposal shall require that the course be given at least twice each year, during the period between the announcement of the Bar examination results and the scheduled Bar admission ceremonies next following that announcement, in the number of locations determined from time to time by the Court. In its discretion, the Court may develop the structure and features of the course on its own.~~

~~(b) Course Presentation~~

~~The approved plan shall be implemented as directed by the Court of Appeals.~~

~~(c) Duty to Complete Course~~

~~Before admission to the Bar, an individual recommended for admission pursuant to Rule 10 shall successfully complete a course on legal professionalism approved by the Court of Appeals. For good cause shown, the Court may admit an individual who has not completed the course, on condition that the individual complete the next regularly scheduled course. If the attorney does not successfully complete the next post-admission course, the Court shall enter a Decertification Order prohibiting the individual from practicing law in the State and shall mail, by first class mail, a copy of the order to the individual. Mailing of the copy shall constitute service. The decertification shall remain in effect until the Court, after having received satisfactory proof that the individual has successfully completed the course, enters a Recertification Order that restores the individual to good standing. The Clerk of the Court of Appeals shall send a copy of each Decertification Order and each Recertification Order to the Clerk of the Court of Special Appeals, the Clerk of each circuit court, the Chief Clerk of the District Court, and the Register of Wills of each county.~~

~~(d) Duration of Requirement; Evaluation~~

~~This Rule shall remain in effect until January 1, 2016. Prior to that date, the Court of Appeals shall evaluate the results of the course requirement to determine whether to extend this Rule. The Court of Appeals may appoint a committee consisting of one or more judges, lawyers, legal educators, bar~~

~~association representatives, and other interested and knowledgeable individuals to assist the Court in the evaluation and make appropriate recommendations to the Court.~~

Rule 11. REQUIRED ORIENTATION PROGRAM

(a) Appointment of Work Group

The Court of Appeals shall appoint a work group of not more than seven individuals to develop and present to the Court for its approval an orientation program for effectively informing candidates of certain core requirements, established by Rules of the Court or other law, for engaging in the practice of law in Maryland.

(b) Contents of Program

The program shall include information regarding (1) reporting requirements established by Rules of the Court, (2) obligations to the Client Protection Fund and the Disciplinary Fund established by Rule or statute, (3) Rules governing attorney trust accounts and the handling of client funds and papers, and (4) the Rules of Professional Conduct regarding competence, scope of representation, diligence, communications with clients, fees, confidentiality, conflicts of interest, declining representation, meritorious claims, candor toward tribunals, and law firms.

(c) Timing

The program shall be given at least twice a year, in May and in either November or December.

(d) Duration; Materials; Participation from Remote Location

The program shall not exceed three hours in duration. It may include the provision of written materials distributed in a manner determined by the Court but, to the extent practicable, it shall be given in electronic form, so that a candidate may participate from a remote location, subject to appropriate verification of the candidate's actual participation.

(e) Participation Requirement

Commencing June 1, 2016, a candidate may not be admitted to the Bar unless (1) prior to admission, the candidate has produced evidence satisfactory to the Board that the candidate satisfactorily participated in the program, or (2) the candidate has been excused from that requirement by Order of the Court of Appeals.

Committee note: The purpose of the orientation program is to assure that newly admitted attorneys are familiar with core requirements for practicing law in Maryland, the violation of which may result in their authority to practice law being suspended or revoked. The program is not intended to take the place of broader programs on professionalism offered by law schools, bar associations, and other entities, in which the Court of Appeals strongly encourages all attorneys to participate.

Source: This Rule is new.

REPORTER'S NOTE

Current Bar Admission Rule 11, containing provisions pertaining to the course on legal professionalism that prospective new admittees currently are required to complete, is proposed to be deleted.

In proposed new Rule 11, to replace the professionalism course, a requirement of satisfactory completion of an orientation program is added. As noted in the Committee note at the end of the Rule, the purpose of the orientation program is to familiarize new attorneys with core requirements of practicing

law in Maryland, the violation of which may result in their authority to practice being suspended or revoked.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 13 to change the tagline of section (p) and to require that the petitioner comply with Rule 11, as follows:

Rule 13. OUT-OF-STATE ATTORNEYS

. . .

(p) ~~Required Course on Professionalism~~ Required Orientation Program

A petitioner recommended for admission pursuant to section (n) of this Rule shall comply with Rule 11.

. . .

REPORTER'S NOTE

Rule 13 is proposed to be amended to require that out-of-state attorneys admitted under the Rule complete the orientation program required by Rule 11.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Rule 19 to conform to the proposed revision of Bar Admission Rule 11, as follows:

Rule 19. CONFIDENTIALITY

. . .

(c) When Disclosure Authorized

The Board may disclose:

(1) statistical information that does not reveal the identity of an individual applicant;

(2) the fact that an applicant has passed the bar examination and the date of the examination;

(3) any material pertaining to an applicant that the applicant would be entitled to inspect under section (b) of this Rule if the applicant has consented in writing to the disclosure;

(4) any material pertaining to an applicant requested by

(A) a court of this State, another state, or the United States;

(B) Bar Counsel, the Attorney Grievance Commission, or the attorney disciplinary authority in another state;

(C) the authority in another jurisdiction responsible for investigating the character and fitness of an applicant for admission to the bar of that jurisdiction, or

(D) Investigative Counsel, the Commission on Judicial Disabilities, or the judicial disciplinary authority in another jurisdiction for use in:

(i) a pending disciplinary proceeding against the applicant as an attorney or judge;

(ii) a pending proceeding for reinstatement of the applicant as an attorney after disbarment; or

(iii) a pending proceeding for original admission of the applicant to the Bar;

(5) any material pertaining to an applicant requested by a judicial nominating commission or the Governor of this State, a committee of the Senate of Maryland, or a committee of the United States Senate in connection with an application by or nomination of the applicant for judicial office;

(6) to a law school, the names of persons who graduated from that law school who took a bar examination and whether they passed or failed the examination;

(7) to the Maryland State Bar Association and any other bona fide bar association in the State of Maryland, the name and address of a person recommended for bar admission pursuant to Rule 10;

(8) to each entity selected to give ~~the course on legal professionalism~~ the orientation program required by Rule 11 any verify participation in it, the name and address of a person recommended for bar admission pursuant to Rule 10;

(9) to the National Conference of Bar Examiners, the following information regarding persons who have filed applications for admission pursuant to Rule 2 or petitions to take the attorney's examination pursuant to Rule 13: the applicant's name and aliases, applicant number, birthdate, Law School Admission Council number, law school, date that a juris doctor degree was conferred, bar examination results and pass/fail status, and the number of bar examination attempts;

(10) to any member of a Character Committee, the report of any Character Committee or the Board following a hearing on an application; and

(11) to the Child Support Enforcement Administration, upon its request, the name, Social Security number, and address of a person who has filed an application pursuant to Rule 2 or a petition to take the attorney's examination pursuant to Rule 13.

Unless information disclosed pursuant to paragraphs (4) and (5) of this section is disclosed with the written consent of the applicant, an applicant shall receive a copy of the information and may rebut, in writing, any matter contained in it. Upon receipt of a written rebuttal, the Board shall forward a copy to the person or entity to whom the information was disclosed.

. . .

REPORTER'S NOTE

The proposed amendments to Bar Admission Rule 19 conforms it to the provisions of proposed revised Rule 11.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 400 - ATTORNEYS, OFFICERS OF COURT AND OTHER PERSONS

AMEND Rule 16-407 by deleting the words "Professionalism Course and" from subsections (c)(7) and (c)(8); by modifying procedures pertaining to budget preparation and to procurement and personnel decisions; by deleting provisions requiring the appointment of an Executive Director and bookkeeper; by deleting current provisions pertaining to funding; by providing that, with a certain exception, funding be solely as provided by the annual judicial budget; and by making stylistic changes, as follows:

Rule 16-407. MARYLAND PROFESSIONALISM CENTER

(a) Existence

There is a Maryland Professionalism Center, which exists as a unit of the Maryland Judiciary.

(b) General Purposes and Mission

The general purposes and mission of the Maryland Professionalism Center are:

(1) to implement the professionalism policies adopted by the Court of Appeals;

(2) to examine ways of promoting professionalism among Maryland judges, judicial appointees and personnel, and attorneys and to encourage them to exercise the highest level of professional integrity in their relationship with each other, the

courts, and the public and fulfill their obligations to improve the law and the legal system; and

(3) to help ensure that the practice of law remains a high calling focused on serving clients, promoting the proper administration of justice, and furthering the public good.

(c) Duties

To carry out its purposes, the Maryland Professionalism Center shall:

(1) develop and refine mechanisms to advance professionalism as an important core value of the legal profession and the legal process;

(2) design a professionalism website and gather and maintain on it information that will serve as a resource on professionalism for judges, judicial appointees and personnel, attorneys, and the public;

(3) monitor professionalism efforts and developments in other States;

(4) monitor and attempt to coordinate professionalism efforts by the various segments of the Maryland legal and judicial community - the Bar, the courts, the law schools, and attorneys and law firms - with particular emphasis on professionalism training in the law schools;

(5) monitor the efforts of the Maryland State Bar Association and other bar associations in the State in carrying out the mandate of the Court of Appeals with respect to the advancement of professionalism;

(6) publicly acknowledge judges, judicial appointees and personnel, and attorneys for particularly commendable acts of professionalism;

(7) administer the New Bar Admittees' ~~Professionalism Course~~ and Mentoring Program; and

(8) recognize the efforts of attorneys engaged in the ~~Professionalism Course~~ and Mentoring Program.

(d) Board of Directors

(1) Membership

The Maryland Professionalism Center shall be governed by a Board of Directors, to consist of (A) a judge of the Court of Appeals, who shall serve as Chair; (B) a judge of the Court of Special Appeals; (C) a judge of a circuit court; (D) a judge of the District Court; (E) the Dean of the University of Maryland School of Law, or the Dean's designee; (F) the Dean of the University of Baltimore School of Law, or the Dean's designee; and (G) seven practicing members of the Maryland Bar, one from each judicial circuit, giving due regard to ethnic, gender, and experiential diversity.

(2) Appointment

The members of the Board shall be appointed by the Chief Judge of the Court of Appeals.

(3) Terms

(A) The judge of the Court of Appeals serves at the pleasure of the Chief Judge;

(B) The term of the other judges shall be three years or during the incumbency of the individual as a judge of the court upon which the individual was serving at the time of appointment, whichever is shorter.

(C) The term of the Deans' designees shall be three years or during the incumbency of the individual in the capacity in which the individual serves at the law school, whichever is shorter.

(D) The term of the other members shall be three years.

(E) Of the initial appointees, four shall be appointed for an initial term of three years, four shall be appointed for an initial term of two years, and four shall be appointed for an initial term of one year, in order that the terms shall remain staggered. At the end of a term, a member may continue to serve until a successor is appointed.

(F) With the approval of the Chief Judge, the Chair may remove a member prior to the expiration of the member's term and appoint from the same category of membership a successor for the remainder of the unexpired term.

(G) (i) Subject to subsection (d) (3) (G) (ii) of this Rule, a member may be reappointed.

(ii) The period of consecutive service by a member other than the Chair shall be not more than two consecutive terms, except that if the member was appointed to fill the unexpired term of a former member, the period of consecutive

service also may include the remainder of the term of the former member.

(4) Secretary

The Chair shall appoint one of the members of the Board to serve as Secretary, at the pleasure of the Chair. The Secretary shall take minutes of the meetings of the Board and perform other duties related to the work of the Board as may be directed by the Chair.

(5) Compensation

The members of the Board shall serve without compensation but shall be reimbursed for expenses in connection with travel related to the work of the Center in accordance with the approved budget of the Center.

(6) Vice Chair; Committees

The Chair may appoint a Vice Chair and committees of the Board.

(7) Meetings

The Board shall meet at least twice each year, at the call of the Chair.

(8) Quorum

Seven members of the Board shall constitute a quorum for the transaction of business.

(9) Duties

The Chair in collaboration with the Board shall ~~(A)~~ provide managerial oversight of the policies, programs, operations, and personnel of the Maryland Professionalism Center

~~and, (B) prepare and transmit to the State Court Administrator and the Chief Judge of the Court of Appeals a proposed annual budget for the Professionalism Center and transmit the proposed budget to the Chief Judge of the Court of Appeals, (C) establish clear standards for the procurement of goods and services needed by the Center and the establishment and maintenance of a bank account for the Center, and (D) retain a certified public accountant to perform an annual audit of the books and records of the Center. Preparation of the budget and all procurement and personnel decisions shall be in conformance with standards and guidelines promulgated by the State Court Administrator.~~

Cross reference: See Rule 16-101 e.

(e) Personnel

(1) Appointment

The Chair of the Board of Directors may ~~shall~~ appoint an ~~Executive Director, a bookkeeper, and such other personnel for~~ the Center as ~~are authorized by~~ in the approved budget of the Center. ~~The Executive Director and the other personnel serve at the pleasure of the Chair.~~

~~(2) Executive Director~~

~~Subject to oversight by the Chair and the Board, the Executive Director is responsible for the day-to-day administration of the Center, implementation of the Board's policies and directions, and performance of the other duties specified in this Rule.~~

~~(3)~~ (2) Advisors

The Chair may invite ~~other~~ persons to provide advice to and participate in the work of the Center. Unless funds are available in the approved budget of the Center for that purpose, service by those persons shall be without compensation.

(f) Funding

~~The Court of Appeals shall provide funding for the Center:~~

~~(1) from the fees paid by new Bar Admittees for the required Professionalism Course;~~

~~(2) commencing July 1, 2013, from the assessment collected from each attorney by the Client Protection Fund on behalf of the Disciplinary Fund, an annual amount from the Disciplinary Fund maintained pursuant to Rule 16-714, not to exceed five dollars; and~~

~~(3) from such other sources as may be provided for in the judicial budget.~~

Effective January 1, 2016, funding for the Center shall be solely as provided in the annual judicial budget, except that funds obtained by the Center from other sources prior to that date may be used as authorized by the Board of Directors for the purposes and duties of the Center set forth in this Rule.

Source: This Rule is new.

REPORTER'S NOTE

Proposed amendments to Rule 16-407 delete the requirement of administering a professionalism course. Amendments also revise provisions pertaining to budgeting, procurement, and personnel so that those functions are in conformance with standards and guidelines promulgated by the State Court Administrator. The currently required appointment of an Executive Director and

bookkeeper is replaced by the general authority of the Board of Directors to appoint personnel as authorized in the approved budget of the Center. The funding mechanism for the Center is changed so that, effective January 1, 2016, funding is solely as provided in the annual judicial budget, except that funds the Center had obtained from other sources prior to that date may continue to be used for the Center's purposes and duties.