

Regulations of the Legal Specialization Screening Committee

1. Applications for authority to certify lawyers as specialists in a certain field or fields of law shall be made on the JD-ES-63 application form. Applicants shall file one (1) hard-copy and one (1) electronic copy of all application materials. The electronic copy of all application materials shall be sent as a PDF via email to the LSSC email account.
2. Such application forms shall be on file in the office of the Judicial Branch, Legal Services Unit, and shall be available on written request addressed to the Chair of such Committee c/o Director of Legal Services, Judicial Branch, State of Connecticut, P.O. Box 150474, Hartford, Connecticut 06115-0474.
3. Completed application forms shall be submitted to the Chair of the Legal Specialization Screening Committee, c/o Director of Legal Services, Judicial Branch, State of Connecticut, P.O. Box 150474, Hartford, Connecticut 06115-0474.
4. In addition to the information required in such application forms, the Legal Specialization Screening Committee may require such additional information and undertake such investigation of the applicant as it deems necessary to carry out its duties.
5. The Legal Specialization Screening Committee shall submit to the Rules Committee of the Superior Court a written recommendation, with reasons therefore, for approval or disapproval of each application or for the termination of any prior approval granted by the Rules Committee.
6. In discharging its responsibilities the Legal Specialization Screening Committee shall apply the following standards:
 - I. Definitions

As used in these Regulations:

 - (A) "Applicant" means a certifying organization which applies to the Legal Specialization Screening Committee for approval under these Standards.
 - (B) "Committee" means the Legal Specialization Screening Committee.
 - (C) "Certifying Organization" means an organization, bar association, group, or other entity which certifies or intends to certify lawyers as specialists.
 - (D) "Standards" means these Standards.

II. Requirements for Approval of Certifying Organizations

- A. Decision Makers – A majority of the body within an Applicant organization reviewing applications for certification of lawyers as specialists in a particular area of law shall consist of lawyers who have substantial involvement in the specialty area.
- B. Certification Requirements – An Applicant shall require for certification of lawyers as specialists, as a minimum, the following:
- (A) Substantial Involvement – Substantial involvement in the specialty area throughout the three-year period immediately preceding application to the certifying organization. Substantial involvement is measured by the type and number of cases or matters handled and the amount of time spent practicing the specialty area, and require that the time spent in practicing the specialty be no less than twenty-five percent (25%) of the total practice of a lawyer engaged in a normal full-time practice.
- (B) Peer Review – A minimum of five references, a majority of which are from attorneys or judges who are knowledgeable regarding the practice area and are familiar with the competence of the lawyer, and none of which are from persons related to or engaged in legal practice with the lawyer.
- (1) Type of Reference – The certification requirements shall allow lawyers seeking certification to list persons to whom reference forms could be sent, but shall also provide that the Applicant organization send out all reference forms. In addition, the organization may seek and consider reference forms from persons of the organization's own choosing.
- (2) Content of Reference Forms – The reference forms shall inquire into the respondent's areas of practice, the respondent's familiarity both with the specialty area and with the lawyer seeking certification, and the length of time that the respondent has been practicing law and has known the applicant. The form shall inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, the lawyer's dealings with judges and opposing counsel.
- (C) Written Examination – An evaluation of the lawyer's knowledge of the substantive and procedural law in the specialty area, determined by written examination of suitable length and

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complexity. The examination shall include professional responsibility and ethics as it relates to the particular specialty.

(D) Educational Experience – A minimum of 36 hours of participation in continuing legal education in the specialty area in the three-year period preceding the lawyer’s application for certification. This requirement may be met through any of the following means:

- (1) Attending programs of continuing legal education or courses offered by American Bar Association accredited law schools in the specialty area;
- (2) Teaching courses or seminars in the specialty area;
- (3) Participating as panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or
- (4) Writing published books or articles concerning the specialty area.

(E) Good Standing – A lawyer seeking certification is admitted to practice and is a member in good standing in one or more states or territories of the United States or the District of Columbia.

C. Impartial Review – The Applicant shall maintain a formal policy providing lawyers who are denied certification an opportunity for review by an impartial decision maker.

D. Requirements for Re-Certification – The period of certification shall be set by the Applicant, but shall be no longer than five years, after which time lawyers who have been certified must apply for re-certification. Re-certification shall require similar evidence of competence as that required for initial certification in substantial involvement, peer review, educational experience and evidence of good standing.

E. Revocation of Certification – The Applicant shall maintain a procedure for revocation of certification. The procedures shall require a certified lawyer to report his or her disbarment or suspension from the practice of law in any jurisdiction to the certifying organization.

7. Evaluation Criteria

The accreditation process is designed to compare an Applicant’s organization features, operational methods and certification standards against

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requirements of the Standards. In conducting this comparison, the Committee shall utilize the criteria specified below to make the examination of the Applicant as objective and fair as possible. Criteria written with the word “must” are based directly on the Standards and are therefore mandatory. Criteria written with the word “should” are interpretive and intended to guide the Committee in applying the Standards.

- A. Purpose of Organization – The Applicant must demonstrate that its primary purpose includes the identification of lawyers who possess an enhanced level of skill and expertise in the area of law or practice for which specialist certification is being issued. The Applicant must also show that its certification program has as a goal the development and improvement of the professional competence of lawyers.
- B. Organization Capabilities – Any program designed to certify lawyers as specialists is expected to have a continuing responsibility to those it certifies to maintain the integrity and the value of the specialty designation. An Applicant seeking approval must establish that it possesses and will continue to maintain the governance and organizational structures, a reliable source of adequate financial resources and the established administrative processes needed to carry out a certification program in an unbiased, professional and ethically responsible manner on a continuing basis. The primary criteria which will be used in determining organizational capabilities are:
1. a history of adequate financing during the three (3) years preceding the filing of the application. If the Applicant is newly formed, this criteria will be applied to a parent or sponsoring organization, or to individual founders, if no founding organization is involved;
 2. the existence of a budget and financial plan for three (3) years following a grant of accreditation should it be made;
 3. the presence of persons retained by or on the governing board, evaluation committees and staff of the organization who are qualified by experience, education and background to carry out the program of certification operated by the Applicant, including persons with a background in evaluating the validity and reliability of examinations, as well as experienced practitioners in the areas of law in which the organization conducts certification programs;
 4. management, administrative and business practices which allow the Applicant to operate its certification program effectively and provide efficient service to lawyers who submit applications for certification. The processes and procedures used in the

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certification process should include safeguards to ensure unbiased consideration of lawyers seeking certification; and

5. existence of a handbook, guide or manual which outlines the standards, policies, procedures, guides for self-study, and application procedures.

C. Decision Makers – A majority of any Applicant’s governing board, evaluation committee or advisory panel which reviews and passes upon applications for certification must be composed of lawyers who have substantial involvement in the specialty area. For the purpose of this criterion, a person is deemed to meet the “substantial involvement” requirement if he or she:

1. is a specialist certified in the area of law by an organization accredited under these Regulations or approved to certify lawyers in one or more states or territories of the United States of the District of Columbia; or
2. meets the qualifications set out in Section 6-IIB(A) of these Regulations.

D. Uniform Applicability of Certification Requirements and Non-Discrimination – The Applicant’s documents and records submitted in conjunction with its application for approval will be examined to ensure that the requirements for granting certification are clearly stated and that any lawyer who applies who meets such requirements is granted certification.

1. The materials published by the Applicant must not state or imply that membership in, or the completion of educational programs offered by, any specific organization are required for certification, except that this paragraph does not apply to requirements relating to the practice of law which are set out in statutes, rules and regulations promulgated by the government of the United States, by the government of any state or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.
2. The description of the program must indicate that the Applicant does not discriminate against lawyers seeking certification on the basis of race, religion, gender, sexual orientation, disability or age. Experience requirements for lawyers seeking certification or re-certification which may indirectly have an effect on a particular age group must be reasonable.

3. The Applicant's requirements for certification are examined to assure that they are uniform in all jurisdictions in which the Applicant certifies lawyers.

This provision does not prohibit an Applicant from incorporating the requirements for certification, in whole or in part, of a state specialization or certification program, provided that such program's requirements are substantially similar to those of the Applicant.

Where requirements differ because of state or local law regulation, such differences should be explicitly stated in the materials which describe the certification program.

- E. Substantial Involvement – The Applicant must require that a lawyer seeking certification make a satisfactory showing of experience through substantial involvement in the specialty area. Substantial involvement generally includes the type and number of cases or matters handled and the amount of time spent practicing in the specialty area.
 1. In order to meet this standard, the Applicant's certification criteria must require that the time spent practicing the specialty be at least twenty-five percent (25%) of the total practice of a lawyer engaged in a normal full-time practice throughout the three-year period immediately preceding the lawyer's application.
- F. Peer Review – The Applicant must require that a lawyer seeking certification submit the names of at least five (5) references, a majority of whom are attorneys or judges who are knowledgeable regarding the practice area and are familiar with the competence of the lawyer.
 1. The Applicant's procedures must provide that the Applicant, not the lawyer seeking certification, sends the reference forms to potential references.
 2. The reference forms should inquire into the respondent's areas of practice, the respondent's familiarity with both the specialty area and with the lawyer seeking certification, and the length of time that the respondent has been practicing law and has known the lawyer seeking certification. The form should also inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, that lawyer's dealings with judges and opposing counsel.
 3. The materials provided to a lawyer seeking certification must specify that the lawyer may not submit as a reference the name of

any lawyer or judge who is related to the lawyer seeking certification or currently engaged in legal practice with that lawyer.

4. The Applicant should reserve the right to seek and consider reference forms from persons of the organization's own choosing.

G. Written Examination – The Applicant must require that a lawyer seeking certification pass a written examination of suitable length and complexity. The examination must test the knowledge and skills of the substantive and procedural law in the specialty area, must substantially consist of questions not previously used on other examinations, and shall include professional responsibility and ethics as it relates to the particular specialty. The following factors will be used to judge the suitability of the examination used by the Applicant:

1. evidence that the examination's pass/fail levels are established in a manner that is generally accepted as being valid;
2. evidence of both reliability and validity for each form of the examination. Reliability is the consistency or replicability of test results. Validity requires that the content and emphasis of the examination proportionately reflect the knowledge and skills needed for an enhanced level of skill and expertise in the specialty area;
3. evidence of periodic review of the examination to ensure relevance to knowledge and skills needed in the specialty area as the law and practice methods develop over time; and
4. evidence that appropriate measures are taken to protect the security of all examinations.

H. Educational Experience – The Applicant must require that a lawyer seeking certification has completed a minimum of thirty-six (36) hours of participation in continuing legal education in the specialty area in the three (3) year period preceding the lawyer's application for certification.

1. The Applicant may allow a lawyer seeking certification to meet this requirement through any of the following means, including a combination of them:
 - a. attending programs of continuing legal education or courses offered by American Bar Association-accredited law schools in the specialty area, including attendance of programs by videotape;

- b. teaching courses or seminars in the specialty area;
 - c. participating as panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or
 - d. writing published books or articles concerning the specialty area.
 2. The Applicant should require a lawyer seeking certification to provide evidence showing that the programs, courses, seminars, conferences and publications listed above contain sufficient intellectual and practical content so as to increase a lawyer's knowledge and ability in the specialty area. Continuing legal education programs approved by the Judges of the Superior Court in the specialty area will be deemed to have met this criterion.
- I. Good Standing – The Applicant must require that a lawyer seeking certification furnish satisfactory evidence of his or her license to practice law and good standing in one or more states or territories of the United States or the District of Columbia. The application form should request the lawyer to list all current admissions to the bar, along with registration numbers where applicable.
- J. Impartial Review – The Applicant must provide evidence that it maintains and publishes a policy providing an appeal procedure for a lawyer seeking certification to challenge the decision of the persons who review and pass upon applications for certification. The policy must provide a lawyer seeking certification the opportunity to present his or her case to an impartial decision maker in the event of denial of eligibility or denial of certification.
- K. Requirements for Re-Certification
 1. The Applicant must have in existence a plan for periodic re-certification.
 2. The period of certification or re-certification may not exceed five years.
 3. The plan for periodic re-certification must be designed to measure continued competence and enhance the continued competence of certified lawyers. Re-certification requirements must be at least as stringent as those for initial certification in the areas of substantial

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involvement, peer review, educational experience and good standing.

- L. Revocation of Certification – The Applicant must maintain a procedure for revocation of certification, including a requirement that a certified lawyer report his or her disbarment or suspension from the practice of law in any jurisdiction to the Applicant.