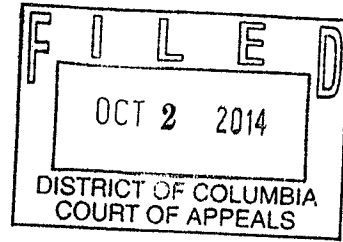


**District of Columbia  
Court of Appeals**



No. M-237-10

BEFORE: Washington, Chief Judge; Glickman, Fisher, Blackburne-Rigsby, Thompson, Beckwith, Easterly, and McLeese, Associate Judges.

**ORDER**

(Filed – October 2, 2014)

On consideration of the proposal to amend D.C. App. R. 48, which governs legal assistance by law students, and to amend Rule XI, Section 1 (a), which defines the disciplinary jurisdiction of this Court, and on consideration of the comments received in response to the Court's notice of proposed rulemaking, it is hereby

ORDERED that D.C. App. R. 48 is amended to read as set forth in Attachment A and Rule XI, Section 1 (a) is amended as set forth in Attachment B.

These amendments shall take effect on December 1, 2014.

ENTERED BY DIRECTION OF THE COURT:

*Jeany B. Dutae*  
for JULIO A. CASTILLO  
Clerk of the Court

## ATTACHMENT A

### RULE 48

#### LEGAL ASSISTANCE BY LAW STUDENTS

(a) *Practice.*

- (1) Pursuant to these rules and as part of a clinical program, an eligible law student may engage in the limited practice of law in the District of Columbia. For purposes of applying this rule, the practice of law shall have the same meaning as it has in D.C. App. R. 49, which defines the unauthorized practice of law. Nevertheless, an eligible student shall not represent a client in any adult criminal case involving a felony in the Superior Court of the District of Columbia. This prohibition on practice in felony cases shall not apply to parole revocation hearings or prison disciplinary actions or to appeals before the District of Columbia Court of Appeals. If the representation occurs before the Superior Court of the District of Columbia, the Office of Administrative Hearings, or an agency of the District of Columbia, the law student must also comply with the rules of that court, agency, or tribunal with respect to student practice. After complying with the certification requirements of this rule, an eligible law student may also engage in the limited practice of law pursuant to the rules of any court, agency, or tribunal of another state of the United States, an international tribunal, or a court or agency of another country which by rule of such court, agency, or tribunal permits such appearance as part of a clinical program. This rule does not govern practice before courts, departments, or agencies

of the United States which, by rule or regulation, permit practice by law students. Students practicing pursuant to these rules in a clinical program, as hereinafter defined, may represent any client who is indigent or who, because of limited financial ability or the nature of the claim, would be unlikely to obtain legal representation, or any non-profit organization, if the client or non-profit organization has consented in writing to that appearance or representation. A “supervising lawyer,” as hereinafter defined or defined by the relevant non-District of Columbia tribunal, must indicate in writing an approval of the student’s appearance or representation.

(i) When appearing in any court or agency of the United States or another state of the United States, an international tribunal, or a court or agency of another country, law students and their supervisors shall be bound by the rules of that tribunal governing eligibility to practice and standards of practice and by the ethical rules of that tribunal or by the District of Columbia Rules of Professional Conduct pursuant to Rule 8.5.

(ii) Students practicing pursuant to this rule must give prominent notice in all business documents of the students’ status and that their practice is limited to matters related to the District of Columbia or other state, federal, or foreign court or agency that permits their participation.

(iii) The Office of Administrative Hearings and agencies of the District of Columbia may adopt rules governing student practice. If their rules permit, a student may practice before those agencies and tribunals without

being enrolled in a clinical program, provided that the student meets the requirements of D.C. App. R. 49(c)(5).

- (2) An eligible law student may also appear in the Superior Court of the District of Columbia in any criminal case not involving a felony and, irrespective of the nature of the crime, any appeal in the District of Columbia Court of Appeals, any parole revocation or prison disciplinary action, or civil, family, or juvenile matter on behalf of the United States or the District of Columbia with the written approval of the United States Attorney or the Attorney General for the District of Columbia or their authorized representatives and the “supervising lawyer.”
- (3) In accordance with D.C. App. R. 49, the “limited practice of law” described in section (a) (1) includes the following so long as the actions are guided by a supervising lawyer as defined by these rules or the rules of the tribunal in which representation is provided:
  - (i) Preparing any legal document, including any deeds, mortgages, assignments, discharges, leases, trust instruments or any other instruments intended to affect interests in real or personal property, wills, codicils, instruments intended to affect the disposition of property of decedents’ estates, and other instruments intended to affect or secure legal rights;
  - (ii) Preparing or expressing legal opinions;
  - (iii) Appearing before any tribunal that permits student practice;
  - (iv) Preparing any claims, demands or pleadings of any kind, or any written documents containing legal argument or interpretation of law, for

filing in any court, administrative agency or other tribunal that permits student practice;

(v) Providing advice or counsel as to how any of the activities described in sub-paragraph (A) through (D) might be done, and whether they were done, in accordance with applicable law.

(4) In each case the written consent and approval referred to in (a) (1) and (a) (2) shall be filed in the record of the case. If representation does not entail a court appearance, such consent shall be part of any retainer agreement entered into by the client.

(5) A “clinical program” is a law school program for credit, held under the direction of a faculty member of such law school, in which a law student obtains practical experience in the practice of law or in the operation of the District of Columbia legal system by participating in cases and matters pending before the courts or administrative tribunals, or by otherwise providing legal services to clients with regard to legal issues.

(b) *Requirements and Limitations.*

To be eligible to engage in the practice of law pursuant to this Rule, the law student must:

(1) Be enrolled in a District of Columbia law school approved by the American Bar Association and the Admissions Committee of this Court, and be enrolled in a clinical course at such law school. A supervised student need not be so enrolled if that student has satisfactorily completed a clinical course in a District of Columbia

law school and is either still in law school or working for the clinic in the summer after graduation and is continuing to represent clients of the clinical program. Notice of an extension to continue practice under this rule must be sent by the Dean to the Committee on Admissions. Such extension may be permitted only once and may remain in effect for six months.

- (2) Have successfully completed one-third of his or her legal studies. Law schools shall establish appropriate pre- and co-requisite instruction to ensure that students are prepared to provide legal representation to clients.
- (3) Be certified by the dean of the law school as being of good character and competent legal ability, and as being adequately trained to engage in the limited practice of law as defined by these rules.
- (4) Be registered with the Unauthorized Practice of Law Committee of this Court.
- (5) Neither ask for nor receive a fee of any kind for any services provided under this rule from any client. Payment of a student research stipend or other law school based support, or a similar grant to a law student or a recent graduate who continues to work on clinic cases after the completion of the clinical course shall not make that student ineligible to practice under this rule. Nothing in this rule shall prevent a law school clinic from receiving court-ordered or statutory fees or court-ordered sanctions related to a case or legal matter.
- (6) Certify in writing that the student has read and is familiar with the District of Columbia Student Practice Rule (D.C. App. R. 48), the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules

of Professional Conduct.

(c) *Certification.*

(1) A certification of a student by the law school dean:

(i) Shall be filed with the Committee on Admissions and, unless it is sooner withdrawn, it shall remain in effect until the expiration of one year after it is filed, or until the announcement of the results of the first bar examination given by the Admissions Committee of this Court following the student's graduation, whichever is earlier. The certification may be continued in effect for any student who passes that examination until the student is either admitted by this court or denied admission to the Bar by the Admissions Committee. The certification may also be extended one time for six months if the supervised student has satisfactorily completed a clinical course and is either still in law school or working for the clinic during the summer, and is continuing to represent clients of a clinical program.

(ii) May be withdrawn by the dean at any time by mailing a notice to that effect to the Committee on Admissions. It is not necessary that the notice state the cause for withdrawal.

(iii) May be terminated by this court at any time without notice or hearing and without any showing of cause. Notice of the termination shall be filed with the Committee on Admissions and a copy thereof sent to the law school dean of the particular student.

(iv) Once the certification is delivered to the court, the student shall be registered with the Unauthorized Practice Committee and a Student Bar membership card shall be issued.

(2) A certification of the clinical course by the law school dean:

(i) Shall accompany the Dean's certification of the student.

(ii) Shall certify that the clinical course and the pre- or co-requisite instruction are designed to provide the student with classroom or individual instruction to ensure that the student knows and understands the substantive, procedural, and evidentiary law required to provide competent representation.

(d) *Other Activities.*

(1) In addition to participating in pending cases and matters as provided in section (a)(1) of this Rule, an eligible student may engage in other activities of the "clinical program" under the general supervision, but outside the physical presence, of the supervising lawyer, including those actions defined herein as the "limited practice of law," with the exception of the following: appearing before a tribunal unless the tribunal consents with respect to a non-contested matter; conducting depositions; engaging in contract closings; and engaging in final settlement agreements.

(2) All pleadings, briefs, and other documents prepared for a case and delivered to any tribunal, opposing or co-counsel, clients, or other persons involved in the matter for which representation is provided pursuant to these rules must be signed by the



student and the supervisor.

- (3) An eligible law student may participate in oral argument in this Court in the presence of the supervising lawyer in any appeal, including felony and misdemeanor cases, provided that there is filed with the Clerk a written consent from the client to that appearance and the supervising lawyer indicates in writing approval of that appearance.

(e) *Supervision.*

The “supervising lawyer” referred to in this Rule shall:

- (1) Be a lawyer whose service as a supervising lawyer for the clinical program is approved by the dean of the law school in which the law student is enrolled.
- (2) Assume full responsibility for guiding the student’s work in any pending case or matter or other activity in which the student participates and for supervising the quality of that student’s work.
- (3) Assist the student in preparation of the case or matter, to the extent necessary in the supervising lawyer’s professional judgment to ensure that the student’s participation is effective on behalf of any client represented.
- (4) Except as provided below for new and visiting faculty members, be an “active” member of the District of Columbia Bar as set forth in the rules of this court governing the Bar of the District of Columbia.

(i) New Faculty Members.

(A) A supervisor who joins a District of Columbia law

school clinical faculty may supervise students if he or she is an active member in good standing of the highest court of any state, has not been suspended or disbarred for disciplinary reasons from practice in any court, and is not subject to any pending disciplinary complaints for violations of the rules of any court, provided that the person has submitted an application for admission to the District of Columbia Bar within ninety (90) days after assuming the position of a clinical faculty member in the District of Columbia and has submitted an application to the Court of Appeals for a waiver of this rule.

(B) Such faculty member must be supervised by an enrolled, active member of the Bar who has suitable experience and is employed by the law school and connected with the school's clinical program.

(C) Such new faculty members shall be subject to the rules of the court governing the Bar of the District of Columbia, including the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct which, pursuant to Rule X and Appendix A thereof, constitute the standards governing the practice of law in the District of Columbia.

(D) A new faculty member must cease supervising students if his or her application for admission to the Bar is denied.

(ii) Visiting Faculty Members

(A) A supervisor who is a visiting faculty member at a District of Columbia law school for one year or less may supervise students without being a member of the District of Columbia Bar if the visiting faculty member is an active member in good standing of the highest court of any state, has not been suspended or disbarred for disciplinary reasons from practice in any court, is not subject to any pending disciplinary complaints for violations of the rules of any court, and has submitted an application to the Court of Appeals for a waiver of this rule.

(B) The visiting faculty member shall certify in the application for a waiver that he or she has completed the Mandatory Course on the District of Columbia Rules of Professional Conduct and District of Columbia Practice required for new admittees to the District of Columbia Bar.

(C) Such visiting faculty member must be supervised by an enrolled, active member of the Bar who has suitable experience and is employed by the law school and is

connected with the school's clinical program.

(D) Visiting faculty may extend their supervisory duties pursuant to this rule for one additional year by filing notice with the District of Columbia Court of Appeals.

(E) Such visiting faculty members shall be subject to the rules of the court governing the Bar of the District of Columbia, including the District of Columbia Student Practice Rule (D.C. App. R. 48), the District of Columbia Unauthorized Practice Rule (D.C. App. R. 49), and the District of Columbia Rules of Professional Conduct which, pursuant to Rule X and Appendix A thereof, constitute the standards governing the practice of law in the District of Columbia.

## ATTACHMENT B

### RULE XI

#### DISCIPLINARY PROCEEDINGS

##### Section 1. *Jurisdiction.*

- (a) Persons subject to disciplinary jurisdiction. All members of the District of Columbia Bar, all persons appearing or participating *pro hac vice* in any proceeding in accordance with Rule 49(c)(1) of the General Rules of this Court, all persons licensed by this Court as Special Legal Consultants under Rule 46(c)(4), all new and visiting clinical professors providing services pursuant to Rule 48(e)(4), and all persons who have been suspended or disbarred by this Court are subject to the disciplinary jurisdiction of this Court and its Board on Professional Responsibility (hereinafter referred to as “the Board”).