

LR 44.1 ATTORNEYS

A. Bar of this Court. The bar of this court will consist of those attorneys admitted to practice before this court.

B. Eligibility. Any person of good moral character who is an active member of the State Bar of South Dakota will be eligible for admission to the bar of this court as hereinafter provided.

C. Procedure for Admission. An attorney who is eligible to practice law as provided by section B may apply for admission to the bar of this court. The application sequence is as follows:

1. Applicants must complete a written application. Forms are available from the clerk of court or on the court's website.
2. Applicants must consent to an inquiry concerning their fitness and qualifications for admission. Submission of the completed application for admission will be considered such consent and a waiver of any privacy regarding the inquiry into fitness and qualifications.
3. The clerk of court will make any inquiry that may be deemed necessary to obtain information concerning an applicant's character and fitness to practice law.
4. At least two active district judges in this district must approve each applicant before an applicant may be admitted.
5. The clerk of court will report to the active judge in the division in which the

application for admission is filed the approval or disapproval of the other active judges.

6. When the approval or disapproval of the application is recorded, the applicant will be notified of the results.

7. Applicants approved will have a day and time scheduled for their admission ceremony.

8. Applicants for admission will appear in person for the admission ceremony with a member of this bar who will vouch for their legal qualifications, integrity, and good moral character of the applicant. Upon oral motion of a member of the bar, taking the prescribed oath, signing the roll of attorneys in the clerk of court's office, and paying the required fee, the applicant will be admitted to the bar of this court. The clerk of court will then issue a Certificate of Admission to the new bar member.

D. Oath of Admission. The following oath or affirmation will be administered to an applicant for admission to the bar of this court:

You do solemnly swear (*or* affirm) that you will support and defend the Constitution of the United States and that you will faithfully demean yourself as an attorney and officer of this court, uprightly and according to law, with all good fidelity to your clients, as well as to the Court. SO HELP YOU GOD. (*or*, If so, please say, "I do.")

E. Appearance of Attorney Pro Hac

Vice. An attorney who is not a member of the bar of this court, but who is a member in good standing of the bar of another United States District Court, may, upon motion and approval by the court, participate in the conduct of a particular case, but such motion may be allowed only if the applicant associates with a member attorney in good standing of the bar of this court. Applicants for pro hac vice admission will disclose any prior or pending disciplinary actions in their application.

The associated attorney in this court (local counsel) will sign all documents filed and will continue in the case unless another attorney admitted to practice in this court has been substituted.

The attorney admitted to practice in this court will be present during all court proceedings (which include telephone or video conference hearings) in connection with the case, unless otherwise ordered, and will have full authority to act for and on behalf of the client in all matters, including pretrial conferences as well as trial or any other hearings.

F. Attorneys for the United States and Federal Public Defender.

An attorney who resides within this district and represents the United States government or any agency or instrumentality thereof or the Federal Public Defender's Office is required to be admitted to the South Dakota bar before the attorney is permitted to practice before this court.

An attorney who is a member of the bar of another United States

district court and not admitted to the South Dakota bar, but either is a:

1. resident assistant United States attorney;
2. resident attorney representing agencies of the government; or
3. resident assistant Federal Public Defender

is given 12 months from the date of the attorney's oath of office for the position in South Dakota to be admitted to the South Dakota bar. During this period, the attorney may be admitted provisionally to practice before this court.

A nonresident attorney who is:

1. designated as "Special Assistant United States Attorney" by the United States Attorney for the District of South Dakota;
2. appointed by the Attorney General of the United States **or employed by a federal agency with independent litigation authority to represent the interest of the government;**
3. hired by the Federal Public Defender's Office; or
4. employed by the North Dakota Federal Public Defender's Office

may be admitted on the attorney's motion, without ~~prepayment~~ payment of fees, to practice in this court during the pendency of the ~~case~~ **employment, appointment or designation** if the attorney is a member in good standing of the highest bar of any state or the District of Columbia. A judge advocate of the armed forces of the United States representing the government in proceedings supervised by judges of the District of South Dakota is not subject to this rule.

G. Disbarment and Discipline.

1. Any member of the bar of this court who has been suspended or disbarred from the State Bar of South Dakota or who has been convicted of any criminal offense in any United States District Court will, upon appropriate notice from the clerk of court, be suspended from practice before this court. The member may thereupon be afforded the opportunity upon notice to show good cause within 21 calendar days why there should be no disbarment or suspension. Upon the member's response to the order to show cause, the member will be entitled to a hearing or, upon the expiration of 21 calendar days if no response is made, the chief judge will enter an appropriate order.
2. Any member of the bar of this court may be disbarred, suspended from practice for a definite time, or reprimanded for good cause shown, after opportunity has been afforded such member to be heard.
3. All applications for the disbarment or discipline of members of the bar of this court will be made to or before the chief judge of this court unless otherwise ordered by the chief judge. At least two district judges of this court will sit at the hearing of such applications unless the attorney against whom the disbarment or disciplinary proceedings are brought states

in writing or in open court the member's willingness to proceed before one district judge.

4. If an investigation is necessary, the chief judge, with the approval of a majority of the district judges, will appoint a member of the bar (hereinafter referred to as "investigator") to investigate charges against any member of this bar. If, as a result of the investigation, the investigator will be of the opinion that there has been a breach of professional ethics by a member of this bar, the investigator, as an officer of the court having special responsibilities for the administration of justice, will file and prosecute a petition requesting that the alleged offender be subjected to appropriate discipline, including disbarment, suspension, or reprimand. The investigator will be paid from the Attorney Admission Fund.

5. The Clerk of Court shall establish a separate attorney discipline docket. Orders of disbarment, suspension and public reprimand shall be a matter of public record. All other documents, hearings and records required under the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding, except upon order of this Court.

H. Reinstatement of Disbarred and Suspended Attorneys.

1. An attorney who has been disbarred or suspended in this court may petition for reinstatement at any time. Upon the filing of such petition with the clerk of court, the chief judge will enter an order setting a date for the hearing on said petition on notice of not less than 21 calendar days. The petitioner will cause a copy of said petition and order for hearing to be served on the investigator who will be in attendance on the date of said hearing. The investigator will investigate the facts alleged in the petition for reinstatement and will present to the court, in affidavit form or otherwise, any facts in support of or against the granting of said petition. Two district judges of this court will sit at the hearing on said petition, and the order denying or granting reinstatement will be made in writing by said judges.

2. An attorney who has been disbarred or suspended by the Supreme Court of the state of South Dakota and thereafter reinstated by that court to practice in the state courts will not be permitted to practice in this court, notwithstanding such reinstatement, until a petition for reinstatement as prescribed in section 1 above, incorporating a certified copy of the order of reinstatement by the Supreme Court of the state of South Dakota, has been filed in this court and reinstatement ordered after a

hearing as above provided. The hearing may be waived by the attorney with the consent of the court.

I. Law Students.

1. Student Practice. Any law student acting under the supervision and in the presence of an attorney of the U.S. Attorney's Office or the Federal Public Defender's Office may be allowed to make an appearance and participate in proceedings in this court pursuant to these rules.

2. Eligibility. To be eligible to appear and participate, a law student must:

a. Be a student in good standing in a law school approved by the American Bar Association.

b. Have completed legal studies amounting to four semesters or the equivalent if the law school is on some basis other than a semester basis.

c. File with the clerk of court:

i. A certificate by the dean of the law school that he or she is of good moral character, meets the requirements above, and is qualified to serve as a legal intern. The certificate will be the form prescribed by the court.

ii. A certificate by the

law student stating that he or she has read and agrees to abide by the rules of the court, and all applicable codes of professional responsibility and other relevant federal practice rules. The certificate will be in a form prescribed by the court.

iii. A notice of appearance in each case in which he or she is participating or appearing as a law student. The notice will be in the form prescribed by the court and will be signed by the supervising attorney who is a member of the bar of this court.

d. Be introduced to the court in which he or she is appearing by an attorney who is a member of the bar of this court.

3. Certificate of Admission. Upon the completion and filing of the certificates required by subdivisions (I)(2)(c)(i) and (ii) of this rule, the clerk of court will issue a certificate of admission to the law student in a form to be prescribed by the court. This certificate will expire contemporaneously with the expiration date of the dean's certificate unless it is sooner withdrawn. Any law student's certificate of admission may

be terminated at any time by the court without notice or hearing and without any showing of cause.

4. Restrictions. No law student admitted under these rules will:

a. Request or receive any compensation or remuneration of any kind from the client. This will not prevent the supervising attorney, law school, public defender, or the government from paying compensation to the law student, nor will it prevent any agency from making such charges for its services as it may otherwise properly require.

b. Appear in court without the presence of the supervising attorney.

c. File any documents or papers with the court that he or she has prepared that have not been read, approved, and signed by the supervising attorney and co-signed by the law student.

5. Supervising Attorneys. Any person acting as a supervising attorney under this rule must be admitted to practice in this court and will:

a. Assume personal professional responsibility for the conduct of the law student being supervised.

b. Co-sign all pleadings, papers, and documents prepared by the law student.

c. Advise the court of the law student's participation, be present with the student at all times in court, and be prepared to supplement oral or written work of the student as requested by the court or as necessary to ensure proper representation of the client.

d. Be available for consultation with the client.