

1 **24-111. Emeritus attorney.**

2 A. **Definitions.**

3 (1) *Emeritus attorney.* An “emeritus attorney” is an attorney who is or was a  
4 licensed attorney in good standing in the State of New Mexico or other jurisdiction who voluntarily  
5 withdrew from the practice of law or transferred to inactive status and does not ask for or receive  
6 compensation of any kind for the performance of legal services, but who is granted permission  
7 under Paragraph D of this rule to participate in the emeritus pro bono program described in  
8 Paragraph B of this rule.

9 (2) *Approved legal aid organization.* An “approved legal aid organization” for  
10 purposes of an emeritus pro bono program is a not for profit legal services organization whose  
11 primary purpose is to provide legal services to low income clients or a legal department within a  
12 non-profit organization that employs at least one (1) lawyer full-time to provide legal services to  
13 low income clients and

14 (a) is an organization described in Section 501(c)(3) and exempt from  
15 federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 or corresponding  
16 provisions of federal income tax laws from time to time in effect;

17 (b) is registered with the New Mexico Attorney General Registry of  
18 Charitable Organizations in compliance with the New Mexico Charitable Solicitations Act;

19 (c) is recommended by the New Mexico Commission on Access to  
20 Justice; and

21 (d) provides lawyer malpractice insurance for the emeritus attorney to  
22 cover services rendered by the attorney while under its supervision.

1                   (3) *Supervising attorney.* A “supervising attorney” as used in this rule is an  
2 active status member in good standing of the New Mexico Bar who directs and supervises an  
3 emeritus attorney who is participating in the emeritus pro bono program. A supervising attorney  
4 shall

5                   (a) be employed by or be a participating volunteer for an approved  
6 legal aid organization; and

7                   (b) assume personal professional responsibility for supervising the  
8 services rendered by an emeritus attorney.

9           **B. Emeritus pro bono program.** An emeritus attorney, in association with an  
10 approved legal aid organization and under the supervision of a supervising attorney, may perform  
11 the following activities:

12                   (1) Appear in any court or before any administrative tribunal in New Mexico  
13 on behalf of a client of an approved legal aid organization provided the client has consented in  
14 writing to that appearance and the supervising attorney has given written approval for that  
15 appearance. A copy of the written consent and approval shall be filed in the record of each case  
16 along with the entry of appearance of the emeritus attorney;

17                   (2) Prepare pleadings and other documents to be filed in any court or before  
18 any administrative tribunal in New Mexico in any matter in which the emeritus attorney is  
19 involved; and

20                   (3) Provide such other services as are authorized by an approved legal aid  
21 organization with the approval and consent of the supervising attorney.

22           **C. Payment, expenses, and award of fees.** Although an emeritus attorney is  
23 prohibited from personally receiving compensation for services performed in an emeritus pro bono

1 program, the approved legal aid organization may reimburse the emeritus attorney for actual  
2 expenses incurred while rendering services in the program. An approved legal aid organization is  
3 not prohibited from charging for the services rendered by an emeritus attorney provided such  
4 charges normally would be charged by the organization. In addition, an approved legal aid  
5 organization shall be entitled to receive all court-awarded attorney fees and costs for the services  
6 rendered by an emeritus attorney.

7       **D. Certification.** To obtain permission to perform services in an emeritus pro bono  
8 program, an attorney who has voluntarily withdrawn as a member of the New Mexico Bar, or other  
9 jurisdiction, or transferred to inactive status shall file with the Supreme Court a motion to be  
10 approved as an emeritus attorney. Upon entry of an order by the Supreme Court granting the  
11 motion, an emeritus attorney is authorized to perform services in an emeritus pro bono program.  
12 The motion shall include the following:

13               (1) a sworn statement that the movant:

14                       (a) has filed a notice with the Supreme Court for voluntary withdrawal  
15 as a member of the New Mexico Bar under Rule [~~24-102(F)~~] 24-102.2(G) NMRA or has  
16 transferred to inactive status under Rule [~~17-202(D)~~] 24-102.2(E) NMRA, and/or has voluntarily  
17 withdrawn or transferred to inactive status in compliance with all applicable rules of all other  
18 jurisdictions in which the movant was licensed;

19                       (b) agrees to abide by the New Mexico Rules of Professional Conduct  
20 and submit to the jurisdiction of the Supreme Court for disciplinary purposes;

21                       (c) has not been disciplined, suspended, disbarred, or resigned in lieu  
22 of discipline in any jurisdiction. If the movant has been disciplined, suspended, disbarred, or  
23 resigned in lieu of discipline in any jurisdiction the movant shall disclose the details of same and

1 the motion to be approved as an emeritus attorney shall be referred to the Disciplinary Board for  
2 investigation by the Board and a recommendation to the Supreme Court following such  
3 investigation;

4 (d) will not hold himself or herself out to be an active member of the  
5 New Mexico Bar;

6 (e) will not ask for or receive compensation of any kind for the legal  
7 services to be rendered in an emeritus pro bono program; and

8 (f) agrees to abide by the requirements and limitations of being an  
9 emeritus attorney.

10 (2) A certification by an approved legal aid organization stating that the  
11 emeritus attorney will associate with that legal aid organization once approved by the Supreme  
12 Court to do so, and that an attorney employed by or participating as a volunteer with that  
13 organization will assume the responsibility of supervising the emeritus attorney as required by  
14 these rules.

15 E. **Exemption from certain fees and reporting requirements.** An emeritus attorney  
16 shall not be responsible for the payment of the annual license fee under Rule 24-102 NMRA, the  
17 annual disciplinary fee under Rule 17-203 NMRA, or the annual client protection fund fee under  
18 Rule 17A-003 NMRA. An emeritus attorney shall not be required to comply with minimum  
19 continuing education requirements under Rule 18-201 NMRA, the mandatory disclosure of  
20 professional liability insurance under Rule 16-104 NMRA, or the trust account certification under  
21 Rule 17-204 NMRA.

1           F.       **Other Authorized Activities.** An emeritus attorney may also serve on Supreme  
2 Court and state bar committees, boards, commissions, or other working groups engaged in  
3 activities designed to improve the legal profession.

4 [Adopted by Supreme Court Order No. 16-8300-006, effective December 31, 2016; as amended  
5 by Supreme Court Order No. 21-8300-030, effective December 31, 2021.]

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