

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 96 - 9208

---

**ORDER OF THE COURT APPROVING  
STANDARDS FOR ACCREDITATION OF  
ATTORNEY CERTIFYING ORGANIZATIONS BY THE  
TEXAS BOARD OF LEGAL SPECIALIZATION**

---

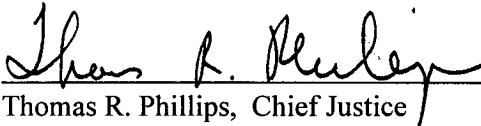
WHEREAS, the Texas Board of Legal Specialization has caused to be published Standards for Accreditation of Attorney Certifying Organizations, and

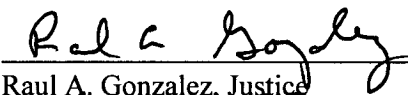
WHEREAS, those amendments to the aforementioned Standards were accepted and approved by the members of the Texas Board of Legal Specialization on June 20, 1996 and presented to this Court, and

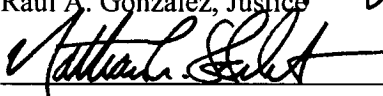
WHEREAS, it appears to this Court that said Standards will advance the administration of justice,

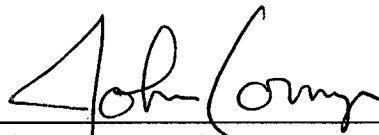
IT IS THEREFORE ORDERED by the Court that the aforementioned Standards be adopted. A copy of the Standards for Accreditation of Attorney Certifying Organizations is attached hereto and made a part hereof.

Signed this 20<sup>th</sup> day of September, 1996.

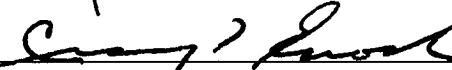
  
Thomas R. Phillips, Chief Justice

  
Raul A. Gonzalez, Justice

  
Nathan L. Hecht, Justice



John Cornyn, Justice



Craig Enoch, Justice

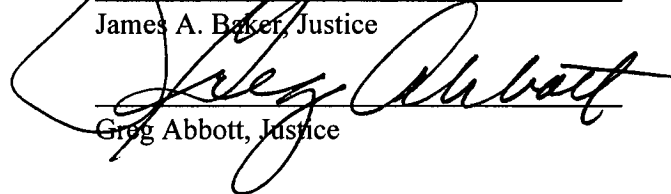
Rose Spector, Justice



Priscilla R. Owen, Justice



James A. Baker, Justice



Greg Abbott, Justice

**TEXAS BOARD OF LEGAL SPECIALIZATION**  
**STANDARDS FOR ACCREDITATION**  
**OF**  
**ATTORNEY CERTIFYING ORGANIZATIONS**

**Definitions:**

1. The Supreme Court of Texas is hereinafter called the "Court".
2. The Texas Board of Legal Specialization is hereinafter called the "TBLS". (Its authority is created by the Court.
3. The organizations applying for accreditation or reaccreditation from the TBLS are hereinafter called the "applicant, applicant organization, or certifying organization".
4. The Standards for Accreditation of Attorney Certifying Organizations are hereinafter called the "Standards".
5. The Texas Plan for Recognition and Regulation of Specialization in the Law is hereinafter called the "Plan".

**SECTION I**  
**JURISDICTION AND AUTHORITY**

Pursuant to the authority granted to it by the Court in the Plan, the TBLS has adopted these Standards for Accreditation of Attorney Certifying Organizations. These Standards require that an accredited organization demonstrate that attorneys certified by it possess enhanced levels of skill and expertise by demonstrating substantial involvement in the specialty area, that accredited organizations require continuing legal education, and meet the professional ethical requirements of attorneys certified by the Texas Board of Legal Specialization. These Standards are designed to enable the TBLS to thoroughly evaluate the objectives, standards and procedures of applicant organizations and thereby to promote the availability, accessibility and quality of the services of lawyers to the public in particular fields of law.

Consistent with these Standards and the Plan, the TBLS shall have the authority to interpret these Standards; adopt other rules and procedures for implementing these Standards, and amend such rules and procedures as necessary; adopt a fee schedule to administer these Standards; consider applications of any certifying organization for accreditation or reaccreditation under these Standards, evaluate those requests and approve them when it deems the organization has met the requirements set out in the Standards; and recommend the revocation of accreditation with the provisions set out in Section III,M of these Standards.

**SECTION II**  
**APPLICATIONS FOR ACCREDITATION, ANNUAL REPORTS**  
**AND REACCREDITATION**

- A. The applicant organization shall file applications for accreditation by a date to be established by the TBLS.
- B. All applications for accreditation of attorney certifying organizations must be submitted on the prescribed application form as approved by the TBLS, which may be amended by the TBLS as necessary.

### SECTION III REQUIREMENTS FOR ORGANIZATION

Each applicant organization must demonstrate that its certification procedure operates in accordance with the following standards:

- A. **Purpose of Organization.** The applicant organization shall demonstrate that it is dedicated to the identification of attorneys who possess an enhanced level of skill and expertise, and to the development and improvement of the professional competence of lawyers.
- B. **Organizational Capabilities.** The applicant organization shall demonstrate that it possesses the organizational resources to carry out its certification program on a continuing basis, and that key personnel have by experience, education and professional background the ability to direct and carry out such programs in a manner consistent with these Standards.
- C. **Financial Capabilities.** The applicant organization shall furnish the existence of a budget and financial plan for 3 years following a grant of accreditation should it be approved.
- D. **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.
- E. **Uniform Applicability of Certification Requirements and Nondiscrimination.**
  - 1. The applicant organization's requirements for certifying lawyers shall not be arbitrary and shall be clearly understood and easily applied. The organization may only certify those lawyers who have demonstrably met each standard. The requirements shall be uniform in all jurisdictions in which it certifies lawyers, except to the extent state or local law or regulation imposes a higher requirement.
  - 2. Membership in any organization or completion of educational programs offered by any specific organization shall not be required for certification, except that this paragraph shall 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 U.S., by the government of any state or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.
  - 3. Applicants shall not discriminate against any attorneys seeking certification on the basis of race, religion, gender, sexual orientation, disability, or age. This paragraph does not prohibit an applicant from imposing reasonable experience requirements on attorneys seeking certification or recertification.
- F. **Definition and Number of Specialties.** An applicant shall specifically define the specialty area or areas in which it proposes to certify attorneys as specialists.
  - 1. Each specialty area in which certification is offered must be an area in which significant numbers of attorneys regularly practice. Specialty areas shall be named and described in terms which are understandable to the potential users of such legal services, and in terms which will not lead to confusion with other specialty areas.
  - 2. An applicant organization may seek accreditation to certify lawyers in more than one specialty area, but in such event, the organization shall be evaluated separately with respect to each specialty program.
  - 3. An applicant organization shall propose to the TBLS a specific definition of each specialty area in which it seeks accreditation to certify lawyers as specialists. The TBLS shall approve, modify or reject any proposed definition and shall promptly notify the applicant of its actions.
- G. **Impartial Review.** The applicant organization shall maintain a formal policy providing attorneys who are denied certification an opportunity for review by an impartial decision maker.

- H. **Written Examination.** The applicant organization must require that an attorney seeking certification must pass a written examination of suitable length and complexity to demonstrate that the attorney can truly demonstrate special competence. The exam shall consist of questions designed to demonstrate the attorney's special competence, and it shall include professional responsibility and ethics as it relates to the specialty area..
- I. **List of Attorneys.** The applicant organization shall provide the TBLS a list of attorneys it has certified along with a State Bar of Texas membership number of each of those attorneys.
- J. **Revocation of Attorney Certification.** The applicant organization shall maintain a procedure for suspension or revocation of certification. The procedures shall require a certified attorney to report any discipline against them in any jurisdiction to the certifying organization.
- K. **Requirement for Attorney Recertification.** The applicant organization must have in existence or be in the process of developing a plan for recertification. The period of attorney certification shall be set by the applicant organization, but shall be no longer than 5 years, after which time attorneys who have been certified must apply for recertification. Recertification shall require similar evidence of competence as that required for initial certification in substantial involvement, peer review, educational experience, evidence of good standing and lists of persons certified as set forth in Section III,I above.
- L. **Accreditation Period and Reaccreditation.**
  - 1. **Accreditation.** Initial accreditation by the TBLS of an applicant organization shall be granted for three years.
  - 2. **Reaccreditation.** To retain TBLS accreditation, a certifying organization shall be required to apply for reaccreditation prior to the end of the third year of its initial accreditation period and every three years thereafter. The date of application will be established by the TBLS. The certifying organization shall be granted accreditation upon a showing of continued compliance with these Standards.
- M. **Revocation of Accreditation.** A certifying organization's accreditation by the TBLS may be revoked upon a determination that the organization has ceased to exist, or has ceased to operate its certification program in compliance with these Standards.
- N. **Misrepresentation.** Misrepresentation by an applicant organization is grounds for denial of its application or revocation of its accreditation.

#### SECTION IV. ATTORNEY INVOLVEMENT REQUIREMENTS

- A. **Certification Requirements.** The applicant organization shall require for certification of attorneys the following minimum requirements:
  - 1. **Years of Practice.** All attorneys applying for certification by the certifying organization must have been engaged in the practice of law for a minimum of five years on a full-time basis.
  - 2. **Substantial Involvement.** All attorneys applying for certification by the certifying organization must meet the substantial involvement in the specialty area throughout the 3 year period immediately preceding application. Substantial involvement is measured by the type and number of cases or matters handled and the amount of time spent practicing in the specialty area by an attorney engaged in a normal full-time practice. The time spent practicing the specialty area must be the greater of 25% or the minimum substantial involvement required by TBLS in a field similarly certified.
  - 3. **Peer Review.** All attorneys applying for certification by the certifying organization must receive a minimum of 5 favorable references, a majority of which are from attorneys who practice in the geographic area, and judges who are knowledgeable regarding the attorney's specialty area. These references must be familiar with the

competence of the lawyer, and none of which are from persons related to or engaged in legal practice with the attorney. In addition to the 5 names of reference supplied by the attorney, the certifying organization may, at its option, send reference forms to other attorneys and judges.

- a. **Type of References.** The certification requirements shall allow attorneys seeking certification to list persons to whom reference forms could be sent, but shall also provide that the certifying organization send out all reference forms. In addition, the certifying organization may seek and consider reference forms from persons of the organization's own choosing.
  - b. **Content of Reference Forms.** The reference forms shall 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 applicant. The form shall inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, the attorney's dealings with judges and opposing counsel.
4. **Written Examination.** An evaluation of the lawyer's knowledge of the substantive and procedure law in the specialty area, determined by written examination of suitable length and complexity. The examination shall include professional responsibility and ethics as it related to the particular specialty.
  5. **Educational Experience.** A minimum of 40 hours of participation in continuing legal education in the specialty area in the 3 year period preceding the attorney's application for certification. Courses approved by the TBLS in the specialty area will be counted towards this requirement. This requirement may be met through any of the following means:
    - a. Attending programs of continuing legal education or courses in the specialty area; or
    - b. Teaching courses or seminars in the specialty area; or
    - c. Participating as a panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or
    - d. Writing published books or article concerning the specialty area.
  6. **Good Standing.** An attorney seeking certification by the certifying organization must be admitted to practice in one or more states or territories of the U.S. or the District of Columbia. The attorney must be an active member in good standing of the State Bar of Texas.
- A.. **Recertification Requirements.** The certifying organization shall require for recertification of attorneys as specialists the following minimum requirements:
1. **Substantial Involvement.** All attorneys applying for recertification by the certifying organization must meet the substantial involvement in the specialty area during each year immediately preceding application. Substantial involvement is measured by the type and number of cases or matters handled and the amount of time spent practicing in the specialty area by an attorney engaged in a normal full-time practice. The time spent practicing the specialty area must be the greater of 25% or the minimum substantial involvement required by TBLS in a field similarly certified.
  2. **Peer Review.** All attorneys applying for recertification by the certifying organization must receive a minimum of 5 favorable references, a majority of which are from attorneys who practice in the geographic area, and judges who are knowledgeable regarding the attorney's specialty area. These references must be familiar with the

competence of the lawyer, and none of which are from persons related to or engaged in legal practice with the attorney. In addition to the 5 names of reference supplied by the attorney, the certifying organization may, at its option, send reference forms to other attorneys and judges.

- a. **Type of References.** The recertification requirements shall allow attorneys seeking recertification to list persons to whom reference forms could be sent, but shall also provide that the certifying organization send out all reference forms. In addition, the certifying organization may seek and consider reference forms from persons of the organization's own choosing.
  - b. **Content of Reference Forms.** The reference forms shall inquire into the respondent's areas of practice, the respondent's familiarity with both the specialty area and with the lawyer seeking recertification, 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 recertification in various aspects of the practice and, as appropriate, the attorney's dealings with judges and opposing counsel.
3. **Educational Experience.** A minimum of 75 hours of participation in continuing legal education in the specialty area in the years of recertification preceding the attorney's application for recertification. A maximum of 40 hours per calendar year can be applied towards recertification requirements. There is to be no carry-over CLE hours. Courses approved by the TBLS in the specialty area will be counted towards this requirement. This requirement may be met through any of the following means:
- a. Attending programs of continuing legal education or courses in the specialty area; or
  - b. Teaching courses or seminars in the specialty area; or
  - c. Participating as a panelist, speaker or workshop leader at educational or professional conferences covering the specialty area; or
  - d. Writing published books or article concerning the specialty area.
4. **Good Standing.** An attorney seeking recertification must be an active member in good standing of the State Bar of Texas.

## SECTION V FEES

Certifying organizations shall pay such fees for accreditation as established by the TBLS, which may be amended from time to time.