

Supreme Court of Texas

Misc. Docket No. 22-9070

Order Amending Texas Plan for Recognition and Regulation of Specialization in the Law and Adopting Standards for Attorney Certification in Aviation Law

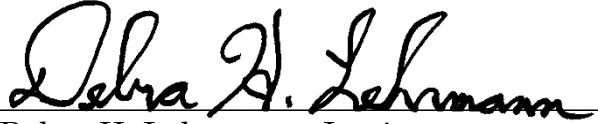
ORDERED that:

1. Section XII of the Texas Plan for Recognition and Regulation of Specialization in the Law is amended as follows, effective immediately.
2. The Standards for Attorney Certification in Aviation Law are adopted as follows, effective immediately.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

Dated: August 29, 2022.



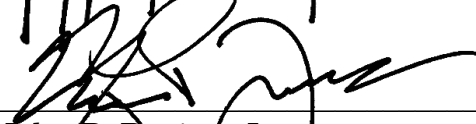
Nathan L. Hecht, Chief Justice



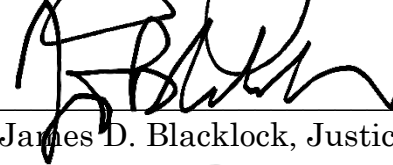
Debra H. Lehrmann, Justice



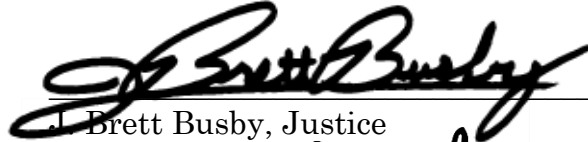
Jeffrey S. Boyd, Justice



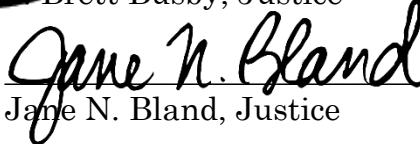
John P. Devine, Justice



James D. Blacklock, Justice



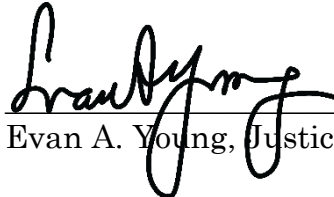
Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

**TEXAS PLAN FOR RECOGNITION AND REGULATION OF
SPECIALIZATION IN THE LAW**

**SECTION XII
RETAINED JURISDICTION OF SUPREME COURT**

The jurisdiction of the TBLS shall be limited to twenty-~~one~~two areas of law: Criminal Law; Labor and Employment Law; Family Law; Estate Planning and Probate Law; Civil Trial Law; Personal Injury Trial Law; Immigration and Nationality Law; Real Estate Law; Tax Law; Bankruptcy Law; Oil, Gas and Mineral Law; Civil Appellate Law; Administrative Law; Consumer and Commercial Law; Juvenile Law; Health Law; Workers' Compensation Law; Criminal Appellate Law; Construction Law; Child Welfare Law; ~~and~~ Legislative and Campaign Law; and Aviation Law; and to the development and operation of the program in the recognition and regulation of specialization in the law, provided, however, that the number and type of areas included in the program and the jurisdiction of the TBLS may be enlarged, altered, or terminated from time to time by the Supreme Court of Texas.

TEXAS BOARD OF LEGAL SPECIALIZATION
STANDARDS FOR ATTORNEY CERTIFICATION

PART II
SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply to the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

SECTION XXII

AVIATION LAW
(Area ID: AV / Year Started: 2022)

- A. **DEFINITION.** Aviation law is the practice of law dealing with issues affecting aircraft and airport operations, aircraft ownership, aircraft navigation and maintenance, air traffic control safety, pilot licensing and certification requirements, spacecraft, and outer space.
- B. **SUBSTANTIAL INVOLVEMENT.** To demonstrate substantial involvement and special competence in aviation law, Applicant must meet the following minimum requirements.
1. **Certification.**
 - a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 30% of Applicant’s time practicing aviation law during each of the three years immediately preceding application.
 - b. **Task Requirements.** Applicant must show that he or she has engaged directly and substantially in a broad practice of aviation law within the three years immediately preceding application. Applicant must provide information as required by TBLS concerning specific tasks Applicant has performed in aviation law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by Applicant.

- (1) Applicant must show specific and substantial involvement in at least two of the following areas within the three years immediately preceding application:
 - (a) representing parties in transactions that are governed by, or otherwise directly affected by, aviation law, such as aircraft purchase or sale agreements, aircraft lease agreements, and other similar agreements;
 - (b) providing legal counsel with respect to various tax or regulatory matters that are governed by, or otherwise directly affected by, aviation law, such as:
 - i. structuring ownership or use of airports or aircraft in compliance with applicable federal aviation regulations;
 - ii. international, federal, state, or local taxes that might be assessed due to such transactions, ownership, or use;
 - iii. international treaties that might be involved in such matters;
 - iv. best practices for all aspects of airport or aircraft transactions, ownership, or use; and
 - v. Unmanned Aircraft Systems (UAS) or the commercial space industry;
 - (c) serving as legal counsel in civil aviation authority regulatory enforcement matters—such as pre-trial, trial, appellate, mediation, or administrative proceedings that involve disputes—or other legal regulatory actions concerning aviation law;
 - (d) providing legal counsel with respect to aviation-related insurance claims and conditions of coverage and insurance law applicable to the litigation of aviation-related claims and defenses;

- (e) trying at least ten civil trials in a state or federal court of record in the United States that meet the following additional requirements:
 - i. at least five must involve an aviation law dispute with an amount in controversy exceeding \$25,000 or significant nonmonetary claims;
 - ii. at least five must be jury trials that were conducted in a Texas or federal court of record by Applicant as lead counsel and submitted to the jury; and
 - iii. in at least three jury trials, Applicant must have played a significant role in conducting jury selection.

- (2) Applicant must show by detailed response that Applicant has engaged at a primary level of responsibility for a client or employer in, or has had active management and oversight of one or more attorneys directly involved in, each of the Section B, 1, b, (1), (a)-(d) areas Applicant submitted to satisfy the task requirements.

- (3) Applicant may substitute the following types of proceedings for two of the five aviation law civil trials required by Section B, 1, b, (1), (e), i:
 - (a) no more than one arbitration involving an aviation law dispute conducted to a final decision by Applicant as lead counsel in which:
 - i. formal rules of evidence and procedure governed; and
 - ii. the amount in controversy exceeded \$25,000 or the arbitration involved significant nonmonetary claims;

 - (b) no more than one contested administrative proceeding involving an aviation law dispute conducted by Applicant as lead counsel before the

National Transportation Safety Board (“NTSB”) in which:

- i. Applicant conducted direct and cross-examination of witnesses at a hearing on the merits;
- ii. the NTSB issued a final order ; and
- iii. the proceeding arose from an action seeking the suspension or revocation of a license or certificate issued by the Federal Aviation Administration or the imposition of a civil penalty against a non-certified person;

(c) no more than one temporary or preliminary injunction hearing involving an aviation law dispute conducted to a decision on the injunction request by Applicant as lead counsel in which:

- i. Applicant presented an opening and closing statement and conducted direct and cross-examination of witnesses; and
- ii. the amount in controversy exceeded \$25,000 or the hearing involved significant nonmonetary claims.

(4) For any trials or Section B, 1, b, (3) proceedings submitted to satisfy the task requirements, Applicant must have devoted a total of at least 20 separate days in trial or in the Section B, 1, b, (3) proceedings, of which at least 10 days must have been devoted to jury trials.

2. **Recertification.** Applicant must have devoted a minimum of 30% of Applicant’s time practicing aviation law during each year of the five-year period of certification unless Applicant meets the exception in Part I-General Requirements, Section VI, C, 1, (b).

C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of five names and addresses of persons to be contacted as references to attest to Applicant’s competence in aviation law. These persons must be substantially involved in aviation law and be familiar with Applicant’s aviation law practice.

1. **Certification.** Applicant must submit names of persons with whom Applicant has had dealings involving aviation law matters within the three years immediately preceding application.
2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving aviation law matters since certification or the most recent recertification.
3. **Reference Types.** If Applicant submits trials under Section B, 1, b, (1), (e) to satisfy the task requirements, four of the references must be Texas attorneys and one of the references must be a judge of any Texas or federal court of record. If Applicant does not submit trials under Section B, 1, b, (1), (e) to satisfy the task requirements, the five references must be Texas attorneys.