

1 **Rule ~~14-525~~11-591. Reinstatement following a suspension of more than six months;**
2 **~~readmission~~relicensure.**

3 (a) **Generally.** A ~~Respondent~~ Respondent suspended for more than six months or a ~~disbarred~~
4 ~~delicensed~~ Respondent ~~shall~~ may be reinstated or ~~readmitted~~ relicensed only upon the
5 district court's order ~~of the district court~~. No ~~Respondent~~ Respondent may petition for
6 reinstatement until three months before the period for suspension has expired. No
7 ~~Respondent~~ Respondent may petition for ~~readmission~~ reinstatement until five years after the
8 effective date of ~~disbarment~~ delicensure. A ~~Respondent~~ Respondent who has been placed on interim
9 suspension and is then ~~disbarred~~ delicensed for the same misconduct that was the
10 ground for the interim suspension may petition for ~~readmission~~ reinstatement or
11 relicensure at the expiration of five years from the effective date of the interim
12 suspension.

13 (b) **Petition.** A petition for reinstatement or ~~readmission~~ relicensure ~~shall~~ must be
14 verified, filed with the district court, and ~~shall~~ must specify with particularity the
15 manner in which the ~~Respondent~~ Respondent meets each of the criteria specified in paragraph (e)
16 or, if not, why there is otherwise good and sufficient reason for reinstatement or
17 ~~readmission~~ relicensure. With specific reference to paragraph (e)(4), ~~prior to the~~ before
18 filing ~~of~~ a petition for reinstatement or ~~readmission~~ relicensure, the ~~Respondent~~ Respondent must
19 receive a report and recommendation from the Bar's Character and Fitness Committee.
20 In addition to receiving the report and recommendation from the Character and Fitness
21 Committee, the ~~Respondent~~ Respondent must satisfy all other requirements as set forth in Chapter
22 14, Article 7, Admissions. Prior to Before or as part of the ~~Respondent's~~ Respondent's petition, the
23 ~~Respondent~~ Respondent may request to ~~modification~~ or ~~abatement of~~ conditions of discipline,
24 reinstatement or ~~readmission~~ relicensure.

25 (c) ~~Service of~~ Serving the **petition.** The ~~Respondent~~ Respondent ~~shall~~ must serve the OPC with a
26 copy of the petition ~~upon OPC counsel~~.

27 (d) ~~Publication of~~ Publishing **notice of petition.** ~~At the time~~ When a ~~Respondent~~ Respondent files a
28 petition for reinstatement or ~~readmission~~ relicensure, the OPC counsel shall must:

29 (1) publish a notice of the petition in the Utah Bar Journal, which:-

30 (A) ~~The notice shall~~ informs Bar members ~~of the Bar about of~~ the

31 application for reinstatement or ~~readmission~~relicensure, and

32 (B) ~~shall~~ requests that any individuals file notice of their opposition or

33 concurrence with the district court within ~~30~~28 days of the date of

34 publication; and

35 (2) ~~In addition, OPC counsel shall notify~~ send a notice to the Complainant's last

36 known address according to OPC records, to each eComplainant in the

37 disciplinary proceeding that led to the ~~Respondent's~~ suspension or ~~disbarment~~

38 delicensure informing such Complainant that:

39 (A) the ~~Respondent~~ is applying for reinstatement or ~~readmission~~

40 relicensure, and

41 (B) ~~shall inform each complainant that~~ the eComplainant has ~~30~~28 days

42 from the mailing date ~~of mailing to raise~~ objections to or ~~to~~ support the

43 ~~Respondent's~~ petition. ~~Notice shall be mailed to the last known address~~

44 ~~of each complainant in OPC counsel's records.~~

45 (e) **Criteria for reinstatement and ~~readmission~~relicensure.** A ~~Respondent~~ may be

46 reinstated or ~~readmitted~~relicensed only if the ~~Respondent~~ meets each of the following

47 criteria, or, if not, presents good and sufficient reason why the ~~Respondent~~ should

48 nevertheless be reinstated or ~~readmitted~~relicensed.

49 (1) The ~~Respondent~~ has fully complied with the terms and conditions of all prior

50 disciplinary orders except to the extent ~~they~~such orders are abated by the district

51 court.

52 (2) The ~~Respondent~~ has not engaged nor attempted to engage in the

53 unauthorized practice of law during the period of suspension or

54 ~~disbarment~~delicensure.

55 (3) If the ~~Respondent~~ was suffering from a physical or mental disability or
56 impairment which was a causative factor of the ~~Respondent's~~ misconduct,
57 including substance abuse, the disability or impairment has been removed.
58 Where substance abuse was a causative factor in the ~~Respondent's~~ misconduct,
59 the ~~Respondent~~ ~~shall~~may not be reinstated or ~~readmitted~~relicensed unless the
60 Respondent:

61 (A) ~~the respondent~~ has recovered from the substance abuse as
62 demonstrated by a meaningful and sustained period of successful
63 rehabilitation;

64 (B) ~~the respondent~~ has abstained from the use of the abused substance and
65 the unlawful use of controlled substances for the preceding six months;
66 and

67 (C) ~~the respondent~~ is likely to continue to abstain from the substance
68 abused and the unlawful use of controlled substances.

69 (4) Notwithstanding the conduct for which the ~~Respondent~~ was disciplined, the
70 ~~Respondent~~ has the requisite honesty, ~~and~~ integrity, and fitness to practice law.
71 In ~~readmission~~relicensure cases, the ~~Respondent~~ must appear before the Bar's
72 Character and Fitness Committee and cooperate in its investigation of the
73 ~~Respondent~~. A copy of the Character and Fitness Committee's report and
74 recommendation ~~shall~~will be provided to the OPC and forwarded to the district
75 court assigned to the petition after the ~~Respondent~~ files a petition.

76 (A) Factors considered in determining honesty, integrity, and fitness for
77 reinstatement or relicensure. The court must determine whether the
78 Lawyer seeking reinstatement or relicensure has demonstrated the
79 requisite honesty, integrity, and fitness to practice law. The court may
80 consider the Respondent's actions taken during the suspension or
81 delicensure including:

- 82 (i) lack of candor;
83 (ii) unlawful conduct;
84 (iii) false or misleading statements or omissions;
85 (iv) acts involving dishonesty, fraud, deceit, or misrepresentation;
86 (v) abuse of the legal process;
87 (vi) neglecting financial responsibilities;
88 (vii) violating court order;
89 (viii) evidence of mental or emotional instability; and
90 (ix) evidence of drug or alcohol dependency;

91 **(B) Assigning weight and significance to conduct.** In determining
92 honesty, integrity, and fitness to practice law, the court may use the
93 following factors to assign weight and significance to prior conduct:

- 94 (i) how recent the conduct occurred;
95 (ii) seriousness of the conduct;
96 (iii) cumulative effect of the conduct;
97 (iv) evidence of rehabilitation; and
98 (v) positive social contributions while suspended.

99 (5) The ~~R~~espondent has kept informed about recent developments in the law by
100 engaging in legal education and is competent to practice.

101 (6) In cases of suspensions for one year or more, ~~the a R~~espondent lawyer shall
102 will be required to retake and pass the Multistate Professional Responsibility
103 Examination, and Respondent licensed paralegal practitioners must pass the
104 Licensed Paralegal Practitioner Professional Responsibility Exam.

105 (7) In all cases of ~~disbarment~~delicensure, ~~the~~ Respondent lawyer shallwill be
106 required to pass the student applicant Bar Examination and the Multistate
107 Professional Responsibility Examination, and Respondent licensed paralegal
108 practitioners must pass the student applicant Licensed Paralegal Practitioner
109 Licensing Exam.

110 (8) The ~~¶~~Respondent has fully reimbursed the Bar's Lawyers' Fund for Client
111 Protection or Licensed Paralegal Practitioners' Fund for Client Protection for any
112 amounts paid on account of the ~~¶~~Respondent's conduct.

113 (f) **Review of petition.** Within 60 days ~~after of~~ receiving a ~~¶~~Respondent's petition for
114 reinstatement or ~~readmission~~relicensure, ~~the~~ OPC ~~counsel shall~~ must either:

115 (1) advise the ~~¶~~Respondent and ~~the~~ district court that ~~the~~ OPC ~~counsel~~ will not
116 object to the ~~¶~~Respondent's reinstatement or ~~readmission~~relicensure; or

117 (2) ~~file a written~~ objection in writing to the petition.

118 (g) **Hearing; report.** If ~~the OPC an~~ objection is filed by OPC counsel, the district court,
119 as soon as reasonably practicable and within a target date of 90 days of the filing of the
120 petition, ~~shall~~ will conduct a hearing at which the ~~¶~~Respondent ~~shall~~ will have the
121 burden of demonstrating by a preponderance of the evidence that the ~~¶~~Respondent has
122 met each of the criteria in paragraph (e) or, if not, that there is good and sufficient
123 reason why the ~~¶~~Respondent should nevertheless be reinstated or ~~readmitted~~relicensed.
124 The district court ~~shall~~ will enter its findings and order. If ~~the OPC does not~~ no
125 ~~objection is filed by OPC counsel~~, the district court ~~shall~~ will review the petition
126 without a hearing and enter its findings and order.

127 (h) **Successive petitions.** Unless the district court orders otherwise ~~ordered by the~~
128 ~~district court~~, no ~~¶~~Respondent ~~shall~~ may apply for reinstatement or ~~readmission~~
129 relicensure within one year following an adverse judgment upon a petition for
130 reinstatement or ~~readmission~~relicensure.

131 (i) **Conditions of reinstatement or ~~readmission~~relicensure**. The district court may
132 impose conditions on a ~~Respondent's~~Respondent's reinstatement or ~~readmission~~relicensure if the
133 ~~Respondent~~Respondent has met the burden of proof justifying reinstatement or
134 ~~readmission~~relicensure, but the district court reasonably believes that further
135 precautions should be taken to ensure that the public will be protected ~~upon~~when the
136 ~~Respondent's~~Respondent's returns to practice.

137 (j) **Reciprocal reinstatement or ~~readmission~~relicensure**. If a ~~Respondent~~Respondent has been
138 suspended or ~~disbarred~~delicensed solely ~~on the basis~~because of discipline imposed by
139 another court, another jurisdiction, or a regulatory body having disciplinary
140 jurisdiction, and if the ~~Respondent~~Respondent is later reinstated or ~~readmitted~~relicensed by that
141 court, jurisdiction or regulatory body, the ~~Respondent~~Respondent may petition for reciprocal
142 reinstatement or ~~readmission~~relicensure in Utah. The ~~Respondent~~Respondent ~~shall~~must file with
143 the district court and serve ~~upon the~~the OPC ~~counsel~~with a petition for reciprocal
144 reinstatement or ~~readmission~~relicensure, ~~as the case may be~~. The petition ~~shall~~must
145 include a certified or otherwise authenticated copy of the order of reinstatement or
146 ~~readmission~~relicensure from the other court, jurisdiction, or regulatory body. Within
147 ~~201~~ days of ~~receiving~~service of the petition, ~~the~~the OPC ~~counsel~~ may ~~file an~~file an objection
148 ~~thereto~~ based solely ~~upon~~upon substantial procedural irregularities. If ~~an objection is filed~~the
149 ~~OPC objects~~, the district court ~~shall~~will hold a hearing and enter its findings and order.
150 If no objection is filed, the district court ~~shall~~will enter its order based ~~upon~~upon the petition.

151 Effective December 15, 2020