

Due Process Procedure: Specialist Certification and Recertification

- A. Notice of Action and Request for Reconsideration.** An Applicant who is denied certification or a Specialist who is decertified or denied recertification will be notified of the Criminal Law Specialist Certification Board's decision ("Notice") by registered or certified mail sent to the lawyer's last known address. The reasons for the Certification Board's action will be set forth in that Notice. The Notice shall advise the Applicant or Specialist that he or she may file a request for a Reconsideration Hearing ("Hearing") within thirty (30) days from the postmark date of the Notice. The Hearing will be held before the entire Certification Board.
- B. Reconsideration Hearing.** If a request for reconsideration is made, the Certification Board shall determine if any additional information is needed, and if so, obtain that information from the Applicant or Specialist and/or any other persons or references. The Certification Board Chair will then set a date, time and place for the Hearing and will preside over the Hearing. The Applicant or Specialist has the right to appear at the Hearing and speak. Within seven days of the Hearing, the Certification Board shall send the reconsideration decision in writing to the Applicant or Specialist by certified mail to the Applicant or Specialist's last known address. The reconsideration decision shall set forth the reasons for the determination, and notify the Applicant or Specialist that they may appeal to an Independent Review Panel in writing within thirty (30) days from the postmark date of the reconsideration decision.
- C. Independent Review Panel (IRP).** If a request by an Applicant or Specialist is made for an appeal to an IRP, the appeal will be decided by a three (3)-person IRP. One of the members may be either a retired judge or a Certified Criminal Law Specialist appointed by the Certification Board. The other two (2) members shall be Certified Criminal Law Specialists. The Certification Board will appoint one additional member and notify the appellant of the appointment by certified mail. The appellant will have seven (7) days after receipt of notice of the appointment to choose a third panel member, who must be a Certified Criminal Law Specialist, and to notify the Certification Board of the choice by mail or by email. If the appellant does not choose the third member within seven (7) days of the notice of appointment, the Certification Board will choose the third panel member.
- None of the members of the IRP shall have had any previous involvement in considering the appellant's application or certification file or in the Hearing. The hearing before the IRP will be *de novo*, based on the records considered in the Hearing. The IRP shall report its findings, determination and decision to the Certification Board. The decision of the IRP shall be final. The Certification Board shall notify the appellant of the IRP's decision within seven (7) days of its receipt by certified mail sent to the appellant's last known address.
- D. Hearings.** The Certification Board or the IRP may consider any relevant evidence, including hearsay, if it is the type of evidence upon which reasonable persons rely, regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the same extent that they are recognized in civil actions. The Certification Board or the IRP may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record, together with the ruling thereon. The burden of persuasion at any Hearing mentioned herein lies with the Applicant or Specialist.

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If the Applicant or Specialist desires a transcript made of any Hearing mentioned herein the Applicant or Specialist must provide a court reporter at their own expense and provide a copy of any transcript to the Certification Board.

Minnesota State Bar Association

Certified ▲ Specialist

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