

Specialist Standards and Requirements for Certification and Recertification

The following are Standards and Requirements for Certification and Recertification of lawyers as Labor and Employment Law Specialists. The Minnesota Board of Legal Certification “Rules” (www.mblc.state.mn.us), supplemented by these Standards, governs initial and continued recognition of Certified Labor and Employment Law Specialists.

I. GENERAL REQUIREMENT AND DEFINITIONS.

- A. No standard shall in any way limit the right of Certified Labor and Employment Law Specialists to practice in all fields of law. Any lawyer shall have the right to practice in all fields of law, even though recognized as a Certified Specialist in Labor and Employment Law.
- B. No lawyer shall be required to be certified as a Labor and Employment Law Specialist in order to practice in the field of labor and employment law. Any lawyer shall have the right to practice in the field of labor and employment law, even though he or she is not recognized as a Certified Specialist in that field.
- C. Every lawyer Applicant (“Applicant”) shall be admitted to practice on active status in this state.
- D. Certification, once granted, shall be for a period of six (6) years, unless the Specialist is decertified as provided for under these Standards. Specialists are required to be recertified at the end of every six (6)-year period by the Rules of the Minnesota Board of Legal Certification (“MBLC”).
- E. The Labor and Employment Law Specialist Certification Board (“Certification Board”) shall be composed of seven (7) to nine (9) members. Current members will nominate new members subject to the approval of the Minnesota State Bar Association Labor & Employment Law Section. The make-up of the Board shall be geographically diverse and represent both plaintiff and defense and both employment and labor practice. The Certification Board will be responsible for the administration of the Certified Labor and Employment Law Specialist program.

DEFINITION OF SPECIALTY FIELD

The Labor and Employment Law specialty field is the practice of law dealing with relationships among employers, employees, and labor organizations, except workers’ compensation. It includes all aspects of labor relations and employment law, both public and private, employment-related statutes, employment-related torts and contracts, and employment discrimination. This definition includes all forms of labor and employment litigation, advice, counseling, negotiations, arbitration, mediation, and other forms of alternative dispute resolution before all tribunals.

II. MINIMUM STANDARDS FOR SITTING FOR SPECIALIST CERTIFICATION.

To become certified as a Labor and Employment Law Specialist, an Applicant shall meet the following Standards:

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- A. The Applicant is licensed as an attorney and on active status in Minnesota.**
- B. Substantial Involvement and Experience in Labor and Employment Law Practice.**
1. The Applicant must have practiced continuously for a minimum of six (6) years immediately preceding filing of the Application. During each of those six (6) years, the Applicant shall have spent at least 75% of their full-time practice (or its equivalent) in active participation in labor and employment law,
- OR, in the alternative,
2. The Applicant must have practiced continuously for a minimum of ten (10) years immediately preceding filing of the Application. During each of those ten (10) years, the Applicant shall have spent at least 60% of their full-time practice (or its equivalent) in active participation in labor and employment law,
 3. The Applicant shall submit an Application narrative on a form provided by the program describing the Applicant's labor and employment experience, any special education, honors or special contributions to the legal profession.
- C. Labor and Employment Law Knowledge.** The Applicant shall pass a written examination applied uniformly to all Applicants to demonstrate sufficient knowledge, proficiency and experience in labor and employment law to justify the representation of special competence to the legal profession and to the public in that area. The examination shall also test professional responsibility and ethics as it relates to labor and employment law.
- D. Reputation for Labor and Employment Law Competence in the Legal Community.** The Applicant shall: demonstrate to the satisfaction of the Certification Board a reputation among his or her peers for working in a professional manner and demonstrating knowledge, skills and competence in labor and employment law.

The Applicant must receive at least five positive references and must:

1. Submit the names and addresses of five individuals, who are not related to or engaged in legal practice with the Applicant, to attest to the Applicant's competence and involvement in the practice of labor and employment law. Such individuals shall be substantially involved in labor and employment law and shall be familiar with the Applicant's practice. The Minnesota State Bar Association Certified Legal Specialists program will request these references directly from the reviewers.
 - a. At least two (2) of the five (5) listed names shall be Neutrals (Judge, arbitrator, mediator, agency personnel, NLRB investigator) before whom the Applicant has appeared as a labor and employment law advocate. The Neutrals do not need to be licensed attorneys.

For Applicants who have been in-house counsel for at least five years and whose practice does not involve regular contact with Neutrals, the Applicant may substitute the name of a former

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colleague or supervisor or the name of in-house counsel at another organization who is generally familiar with the Applicant's labor and employment law practice and skills for one of the Neutrals.

- b. At least two (2) of the five (5) listed names shall be opponents or attorneys representing another party in a labor and employment law matter. The opponents do not need to be licensed attorneys.

For Applicants who have been in-house counsel for at least five years and whose practice does not involve regular contact with opponents or opposing counsel, the Applicant may substitute the name of a former colleague or supervisor or the name of in-house counsel at another organization who is generally familiar with the Applicant's labor and employment law practice and skills for one of the opponents or opposing counsel.

- c. One of the five (5) listed names may be a lawyer generally familiar with the Applicant's labor and employment law practice and skills.

- 2. Reference requests may be sent to other lawyers and judges the Applicant has not listed or requested. The Certification Board also reserves the right to require the Applicant to submit additional names and addresses of references.
- 3. Completed references shall be kept strictly confidential by the Certification Board. All other references, communications, reference forms, and information gathered pertaining to the applicant are confidential and neither the forms nor any information concerning them will be provided to the Applicant.

The Applicant shall be required to acknowledge confidentiality and to waive any right to seek any information of any type about references. Certification may be denied based upon information disclosed in references.

- E. **Continuing Labor and Employment Law Education.** The Applicant shall verify continuing education in the specialty area of labor and employment law by completing no less than thirty (30) hours in continuing legal education courses about labor and employment Law. These thirty (30) credits must be completed in the three (3)-year period immediately before filing the Application.
- F. **MBLC Rule 114.** An Applicant shall agree to provide a release to share information with the MBLC as required by MBLC Rule 114.

III. STANDARDS REGARDING DISCLOSURE OF CONDUCT: INITIAL APPLICATION, CONTINUED CERTIFICATION OR RECERTIFICATION.

- A. To become and to remain certified as a Labor and Employment Law Specialist, the Applicant or Specialist shall demonstrate to the satisfaction of the Certification Board good character and ethical behavior. The Applicant or Specialist shall have a continuing obligation to disclose:
 - 1. Any conviction of a crime, excluding misdemeanor traffic offenses, regardless of whether the conviction was the result of a plea of guilty or nolo contendere, or of a verdict after a trial, and whether such conviction resulted in imprisonment, probation, fine, or suspension of sentence.
 - 2. Any concluded claim of malpractice brought against the Applicant or Specialist in the ten (10) years before Application or at any time during a Certification period.
 - 3. Any proceeding which resulted in the Applicant or Specialist being disbarred, suspended, publicly reprimanded, sanctioned or otherwise subjected to public discipline by any disciplinary board in any jurisdiction in which an Applicant or Specialist has an active license.
- B. The Certification Board shall determine whether the circumstances of any conviction, malpractice claim or public disciplinary sanction disclosed by the Applicant or Specialist are such that he/she should be denied initial or continued certification. In making such determination, the experience of the Applicant or Specialist at the time of the incident; the experience and reputation since the incident; the seriousness of the acts or omissions involved and the resolution may be considered. There will be no right to reconsideration of Certification Board determinations made pursuant to this provision.
- C. The failure of an Applicant or Specialist to disclose a conviction, concluded malpractice claim or public disciplinary sanction as defined above, is a material misrepresentation and may be grounds for decertification or for refusal to grant certification or recertification.
- D. An Applicant or Specialist shall have a continuing duty to disclose any matters as outlined in this Standard within thirty (30) days of final imposition or disposition or as directed by the Certification Board. Failure to do so may be grounds for decertification or for refusal to grant certification or recertification.
- E. If an Applicant has been disbarred or suspended and later re-issued a license by the Minnesota Supreme Court, the Certification Board shall determine whether the Applicant should be granted or denied certification based upon the factors set forth in paragraph III.B.

IV. STANDARDS REGARDING CONTINUED CERTIFICATION OR RECERTIFICATION.

To remain certified as a Labor and Employment Law Specialist, a Specialist shall meet the following Standard:

- A. Continuing Labor and Employment Law Education.** The applicant shall verify continuing education in the specialty area of labor and employment law by completing no less than thirty (30) hours of continuing legal education courses related to labor and employment law or labor and employment trial skills every three years. These thirty (30) credits shall be completed during the Specialists' three (3)-year reporting period for attorney licensure and reported on program forms coinciding with the reporting year for licensure.
- B. Annual Audit.** The Specialist shall be sent an annual audit requesting verification that the Specialist is licensed and on active status in Minnesota; verification of continued substantial involvement in the specialty area; disclosure of conduct, and an annual fee.

V. STANDARDS FOR RECERTIFICATION.

Recertification shall be governed by the following Standards:

- A. The Applicant is licensed as an attorney and on active status in Minnesota.**
- B. Substantial Involvement and Experience in Labor and Employment Law Practice.**
 - 1. The Applicant shall demonstrate substantial involvement in labor and employment law practice throughout the period of certification. Substantial involvement means the Applicant shall have spent at least 60% of their full-time practice (or its equivalent) in active participation in labor and employment law,
 - 2. The Applicant shall submit a Recertification Narrative on a form provided by the program describing the Applicant's labor and employment law experience, any special education, honors or special contributions to the legal profession.

VI. STANDARDS FOR DECERTIFICATION, SUSPENSION AND DENIAL OF CERTIFICATION

- A. Automatic Denial or Revocation of Certification.** The certification of a lawyer will automatically be denied or revoked if:
 - 1. The lawyer fails to maintain thirty (30) Continuing Legal Education credit hours in the area of labor and employment law or trial skills every three (3) years;
 - 2. The lawyer is suspended or disbarred from the practice of law in any jurisdiction in which the lawyer is licensed;
 - 3. The lawyer is suspended for nonpayment of license fees or for failing to maintain mandatory continuing legal education credits for the lawyer's license;
 - 4. The lawyer fails to satisfactorily complete the process required by the Certification Board for application, continued certification or recertification;

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5. The lawyer fails to pay the fees established by the Certification Board,
6. The lawyer ceases to meet the qualifications for certification as a Labor and Employment Law Specialist, or
7. The lawyer sends written notice that the Specialist seeks decertification.

B. Discretionary Denial, Suspension or Revocation of Certification. The certification of a lawyer may be denied, suspended or revoked if:

1. The authority of the certifying agency is rescinded by the MBLC. The MBLC has the authority to determine how the certification of lawyers certified by the agency shall be affected;
2. The lawyer falsely or improperly announces the specialty area of certification;
3. The lawyer fails to cooperate with the Certification Board or submits false or misleading information during the certification or recertification process,
4. Certification was granted contrary to the Rules of the MBLC and the Certification Board;
5. Five (5) members of the Certification Board determine that certification should be denied, suspended or revoked because the Applicant or Specialist fails to meet any of the minimum Standards for Certification set forth in Standard II. or V.

VII. STANDARDS FOR REAPPLICATION AFTER A LAPSE IN CERTIFICATION.

- A. Specialists who have voluntarily relinquished their certification or whose certification has been revoked or suspended for failure to file the Annual Audit or to satisfactorily complete the recertification process, failure to pay fees, or ceasing to meet qualifications for certification, may reapply for certification if they meet the following requirements:
1. If the lapse in certification has been for three (3) years or less, the Applicant must complete a Recertification Application and pay the fee(s).
 2. If certification has lapsed for more that three (3) years, the Applicant must also pass a written examination about labor and employment law when next offered after application for recertification.
- B. A Certified Specialist whose certification has been revoked for any other reason may be considered for re-admission to the Certified Labor and Employment Law Specialist program under terms and conditions established by the Certification Board based on the circumstances of the individual case. Upon request, the Certification Board shall inform the Applicants in writing of the Standards they must meet in order to be recertified. There will be no right to reconsideration of Certification Board determinations made pursuant to this provision.

VIII. RIGHT OF APPEAL

A lawyer who is refused certification, recertification, or whose certification is suspended or revoked shall have the right to petition the Certification Board for reconsideration in accordance with standards and requirements as it may prescribe, and subject to limits set forth in these Standards. A copy of the Labor and Employment Specialist Hearing Procedure may be obtained from the office of the Minnesota State Bar Association or through the Web site www.mnbar.org.

Minnesota State Bar Association
Certified ▲ Specialist
Labor and Employment Law

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