

27 NCAC 01D .2805 STANDARDS FOR CERTIFICATION AS A SPECIALIST IN SOCIAL SECURITY DISABILITY LAW

Each applicant for certification as a specialist in Social Security disability law shall meet the minimum standards set forth in Rule .1720 of this subchapter. In addition, each applicant shall meet the following standards for certification in Social Security disability law:

(a) **Licensure and Practice.** An applicant shall be licensed and in good standing to practice law in North Carolina as of the date of application. An applicant shall continue to be licensed and in good standing to practice law in North Carolina during the period of certification.

(b) **Substantial Involvement.** An applicant shall affirm to the board that the applicant has experience through substantial involvement in the practice of Social Security disability law.

(1) "Substantial involvement" shall mean during the five years immediately preceding the application, the applicant devoted an average of at least 600 hours a year to the practice of Social Security disability law, but not less than 500 hours in any one year. "Practice" shall mean substantive legal work done primarily for the purpose of providing legal advice or representation, or a practice equivalent.

(2) "Practice equivalent" shall mean:

(A) Service as a law professor concentrating in the teaching of Social Security disability law for one year or more may be substituted for one year of experience to meet the five-year requirement set forth in Rule .2805(b)(1) above;

(B) Service as a Social Security administrative law judge, Social Security staff lawyer, or assistant United States attorney involved in cases arising under Title II and Title XVI may be substituted for three of the five years necessary to satisfy the requirement set forth in Rule .2805(b)(1) above;

(3) The board may require an applicant to show substantial involvement in Social Security disability law by providing information regarding the applicant's participation, during his or her legal career, as primary counsel of record in the following:

(A) Proceedings before an administrative law judge;

(B) Cases appealed to the appeals council of the Social Security Administration; and

(C) Cases appealed to federal district court.

(c) **Continuing Legal Education.** An applicant must earn no less than 36 hours of accredited continuing legal education (CLE) credits in Social Security disability law and related fields during the three years preceding application, with not less than six credits earned in any one year. Of the 36 hours of CLE, at least 18 hours shall be in Social Security disability law, and the balance may be in the following related fields: trial skills and advocacy; practice management; medical injuries, medicine, or anatomy; ERISA; labor and employment law; elder law; workers' compensation law; veterans' disability law; and the law relating to long term disability or Medicaid/Medicare claims.

(d) **Peer Review.** An applicant must make a satisfactory showing of qualification through peer review. An applicant must provide the names of ten lawyers or judges who are familiar with the competence and qualification of the applicant in the specialty field. Written peer reference forms will be sent by the board or the specialty committee to each of the references. Completed peer reference forms must be received from at least five of the references. All references must be licensed and in good standing to practice law in a jurisdiction in the United States and have substantial practice or judicial experience in Social Security disability law. An applicant consents to the confidential inquiry by the board or the specialty committee of the submitted references and other persons concerning the applicant's competence and qualification.

(1) A reference may not be related by blood or marriage to the applicant nor may the reference be a partner or associate of the applicant at the time of the application.

(2) The references shall be given on standardized forms provided by the board to each reference. These forms shall be returned directly to the specialty committee.

(e) **Examination.** An applicant must pass a written examination designed to demonstrate sufficient knowledge, skills, and proficiency in the field of Social Security disability law to justify the representation of special competence to the legal profession and the public. The examination shall be given annually in written form and shall be administered and graded uniformly by the specialty committee.

(1) **Subject Matter -** The examination shall cover the applicant's knowledge and application of the law relating to the following:

(A) Title II and Title XVI of the Social Security Act;

(B) Federal practice and procedure in Social Security disability cases;

- (C) Medical proof of disability;
- (D) Vocational aspects of disability;
- (E) Workers' compensation offset;
- (F) Eligibility for Medicare and Medicaid;
- (G) Eligibility for Social Security retirement and survivors benefits;
- (H) Interaction of Social Security benefits with employee benefits (e.g., long term disability and back pay);
- (I) Equal Access to Justice Act; and
- (J) Fee collection and other ethical issues in Social Security practice.

History Note: Authority G.S. 84-23;
Approved by the Supreme Court March 2, 2006;
Amendments Approved by the Supreme Court: March 10, 2011; December 14, 2021.