

Supreme Court of Florida

No. 82,616

ORIGINAL

AMENDMENT TO THE RULES OF THE
SUPREME COURT OF FLORIDA RELATING
TO ADMISSIONS TO THE BAR RE: BOARD
MEMBERS EMERITUS

[January 20, 1994]

PER CURIAM.

This is a petition of the Florida Board of Bar Examiners for the adoption of a rule which would create board members emeritus. We have jurisdiction under article V, section 15 of the Florida Constitution.

The board proposes the addition of subsection (c) to article I, section 2 of the Rules of the Supreme Court Relating to Admissions to the Bar which would authorize retired board members to sit on investigative and formal hearing panels. The board suggests, however, that at least one member of the investigative hearing panel should be a current board member and that a majority of the members of a formal hearing panel should

be current board members. The board provides the following rationale for the proposed amendment:

The Board has been experiencing an increase in its case load of formal and investigative hearings. There are presently over fifty cases awaiting a formal hearing. During the fiscal year for 1992-1993, the board conducted over 250 investigative hearings. The Board does not foresee the number of cases proceeding to a hearing to decrease in the future.

Pursuant to the Rules, an investigative hearing must be held before "a division of the Board consisting of no fewer than three members of the Board." Article III, § 3.a. of the Rules. Formal hearings must "be conducted before a quorum of the Board which shall consist of not less than five members." Article III, § 3.f. of the Rules. In the past, the Board has held nine monthly meetings and several special hearing panels each year at which the Board conducts both investigative and formal hearings. Such efforts, however, have been inadequate to allow the Board to schedule all hearings as expeditiously as the Board deems appropriate.

Furthermore, it is estimated that the average Board member currently contributes in excess of 300 hours each year in the performance of his or her duties as a bar examiner. Thus, the scheduling of more meetings and special hearing panels is not a realistic solution. After consideration of this matter, the Board concluded that additional assistance is needed. The proposed rule amendment provides such assistance by authorizing former Board members to participate on hearing panels.

Presently, there are 50 former Board members who are available to assist the Board. In a recent survey, such former Board members overwhelmingly expressed their willingness to participate should the Court adopt the proposed Emeritus rule. Even if only half of the 50 former members can

assist the Board twice a year at hearings conducted in or near their home towns, such assistance would be sufficient to handle over 75 investigative hearings each year. To ensure that the current views of the Board are represented at a hearing, the rule proposal provides that an investigative hearing panel must have, at least, one current member and that a formal hearing panel must consist of a majority of current members.

The proposed amendment and the accompanying rationale were published in The Florida Bar News with the request that any comments thereon be filed with this Court by November 30, 1993. No comments were received.

We believe the board's proposal has merit. Through the use of retired board members, the board should be able to conduct its hearings more expeditiously and thereby shorten the time prospective applicants must wait for determination of whether they may be admitted to the bar. However, in order to ensure consistent application of current board policy, we believe it is desirable that a majority of the members sitting at both the investigative and formal hearings should be current board members. Accordingly, we approve the adoption of article I, section 2.c. of the Rules of the Supreme Court Relating to Admissions to the Bar as set forth below:

c. Board Members Emeritus. Following the completion of their terms, members of the Board shall be designated as Board Members Emeritus. To assist the Board in fulfilling its investigative and adjudicatory functions, a Board Member Emeritus is authorized to participate as a member of an investigative or formal hearing

panel as provided by Article III, Sections 3.a. and f. A majority of the members of the investigative and formal hearing panels shall consist of current members of the Board. To be eligible to serve on a hearing panel, a Board Member Emeritus shall be in compliance with the provisions of Article I, Section 3.e.

This amendment shall be effective when this opinion becomes final.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Proceeding - Florida Board of Bar Examiners

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