

COURT NOTICES

AMENDMENT OF RULE

Rules of the Chief Judge

Pursuant to Article VI, § 28(c) of the State Constitution and section 211(1)(a) of the Judiciary Law, and upon consultation with the Administrative Board of the Courts and with the approval of the Court of Appeals of the State of New York, I hereby promulgate, effective immediately, new Part 49 of the Rules of the Chief Judge, relating to the operation of Superior Court Adolescent Diversion Parts, to read as follows:

PART 49. SUPERIOR COURT ADOLESCENT DIVERSION PARTS

§ 49 Superior Court Adolescent Diversion Parts

(a) *The purpose of this rule is to promote the administration of justice for 16- and 17-year-old defendants in criminal cases by providing a criminal justice response that includes age-appropriate services, interventions, and penalties.*

(b) *The Chief Administrator of the Courts, following consultation with and agreement of the Presiding Justice of the appropriate Appellate Division, may establish Adolescent Diversion Parts in Supreme Court or County Court in the Counties of Bronx, Kings, New York, Queens, Richmond, Nassau, Westchester, Onondaga, and Erie. Adolescent Diversion Parts shall be devoted to the hearing and determination of actions and proceedings pending in criminal courts in the county where the defendant was 16 or 17 years of age at the time of the alleged commission of an offense being prosecuted, and where the action or proceeding is appropriate for disposition in such Parts.*

(c) *The Chief Administrator, upon consultation with the Administrative Board of the Courts, shall promulgate rules to regulate operation of Adolescent Diversion Parts and to authorize transfer to the Parts, for disposition, of any eligible actions or proceedings pending in another court in the same county.*

AMENDMENT OF RULE

Rules of the Chief Administrator of the Courts

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby promulgate, effective immediately, new Part 149 of the Rules of the Chief Administrator of the Courts, relating to the operation of Superior Court Adolescent Diversion Parts, to read as follows:

PART 149. SUPERIOR COURT ADOLESCENT DIVERSION PARTS

§ 149.1 Definitions

(a) *“Adolescent Diversion Part” shall refer to a Part established in Supreme Court or County Court by the Chief Administrator of the Courts pursuant to section 149.2 of this Part.*

(b) *“Adolescent Diversion Part-eligible action or proceeding” shall refer to any action or proceeding pending in a court of criminal jurisdiction in the county where the defendant was 16 or 17 years of age at the time of the alleged commission of the offense being prosecuted and where the action or proceeding is appropriate for disposition in the Adolescent Diversion Part.*

§ 149.2 Establishment of Superior Court Adolescent Diversion Parts

Following consultation with and agreement of the Presiding Justice of the appropriate Appellate Division, the Chief Administrator of the Courts may establish Adolescent Diversion Parts in Supreme Court or

County Court in Bronx, Kings, New York, Queens, Richmond, Nassau, Westchester, Onondaga, and Erie Counties and assign one or more justices or judges to preside therein. Each such Part shall have as its purpose the hearing and determination of Adolescent Diversion Part-eligible actions or proceedings.

§ 149.3 Identification of Adolescent Diversion Part-Eligible Actions or Proceedings

Procedures shall be established in each criminal court in the county where an Adolescent Diversion Part has been created to identify matters eligible for transfer to such Part following arraignment.

§ 149.4 Transfer of Actions or Proceedings to Superior Court Adolescent Diversion Part

(a) *Transfer of actions or proceedings pending in local criminal courts.*

(1) *Following arraignment in an Adolescent Diversion Part-eligible case, a local criminal court in a county in which an Adolescent Diversion Part has been established shall, upon motion of the court or of the defendant or the district attorney, and upon consent of all parties, cause originals or copies of papers and other documents filed in such case in the local criminal court to be sent to the Adolescent Diversion Part.*

(2) *Not later than five days following receipt of the papers and other documents, the justice or judge presiding in the Adolescent Diversion Part shall determine whether or not a transfer of the action or proceeding to the Supreme or County Court where the Adolescent Diversion Part is established would promote the administration of justice. If the justice or judge presiding in such Part determines that it would, he or she may order such transfer, in which event the action or proceeding shall be transferred to the Supreme or County Court and referred for disposition to the Adolescent Diversion Part; all original papers, if not already sent, shall be sent from the originating court to the Adolescent Diversion Part, where all further proceedings shall be conducted. If the justice or judge determines that such a transfer would not promote the administration of justice, he or she shall notify the local criminal court from which the reference was received of such determination and cause all original papers and other documents in the action or proceeding to be returned promptly to the court from which they were received, whereupon all further proceedings in such action or proceeding shall be conducted in accordance with law.*

(3) *Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, where the defendant in a action or proceeding is held by the local criminal court for the action of a grand jury empaneled by a Supreme Court or a County Court, a copy of the papers and other documents filed with such local criminal court shall be delivered to the Adolescent Diversion Part; and the justice or judge presiding in the Adolescent Diversion Part may at any time order a transfer of the action or proceeding to the Supreme Court or County Court where the Adolescent Diversion Part is established provided he or she determines that such a transfer would promote the administration of justice. The original papers and other documents filed with the local criminal court shall be delivered to the Supreme Court or County Court as required by section 180.30(1) of the Criminal Procedure Law.*

(b) *Where an Adolescent Diversion Part-eligible action or proceeding is pending in the Supreme Court or County Court where the Adolescent Diversion Part is established, it may be referred for disposition to the Adolescent Diversion Part of such court and all further proceedings shall be conducted therein.*

§ 149.5 Procedure in an Adolescent Diversion Part

Each action or proceeding transferred from a local criminal court to the Supreme Court or County Court and referred for disposition to an Adolescent Diversion Part thereof shall be subject to the same substantive and procedural law as would have applied had there been no transfer.

AMENDMENT OF RULE

Uniform Civil Rules for the Supreme and County Courts

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby amend, effective immediately, section 202.5-bb(a) of the Uniform Civil Rules for the Supreme and County Courts, relating to electronic filing of actions in the Supreme Court, to read as follows:

* * *

§ 202.5-bb. Electronic Filing in Supreme Court; Mandatory Program.

(a) Application.

(1) There is hereby established a pilot program in which all documents filed and served in Supreme Court shall be filed and served by electronic means in such classes of actions and such counties as shall be specified by order of the Chief Administrator in accordance with chapter 367 of the laws of 1999, as amended [by chapter 416 of the laws of 2009 and chapter 528 of the laws of 2010].

Except to the extent that this section shall otherwise require, the provisions of section 202.5-b of these rules shall govern this pilot program.

(2) For purposes of this [section] *pilot program*:

(i) “commercial actions” and “breach of contract actions” shall mean actions in which at least one claim of the types described in subparagraph (1) of paragraph (B) of subdivision (b) of section 6 of chapter 367 of the laws of 1999, as amended [by chapter 416 of the laws of 2009 and chapter 528 of the laws of 2010], is asserted.

(ii) “tort actions” shall mean actions (excluding a commercial or breach of contract action defined as set forth above or a claim expressly excluded from “commercial actions” by chapter 367 of the laws of 1999, as amended [but without regard to the amount in controversy]) in which only money damages are sought and in which at least one claim is asserted that arises out of or alleges:

(A) a motor vehicle accident, product liability, injury to person or property from tortious conduct, wrongful death, mass tort, or medical, dental or podiatric malpractice;

(B) other professional malpractice;

(C) damages to persons or property from environmental conditions; and

(D) negligence, defamation, intentional infliction of emotional distress or other intentional harm.

* * *

AMENDMENT OF RULE

Uniform Civil Rules for the Surrogate’s Court

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby amend, effective immediately, section 207.4-a of the Uniform Civil Rules for the Surrogate’s Court, relating to consensual electronic filing of actions in the Surrogate’s Court, to read as follows:

* * *

§ 207.4-a *Electronic Filing in Surrogate’s Court*; [E-filing Pilot-]Consensual Program [Rules]

(a) Application. [Documents] *On consent, documents* may be filed or served electronically in Surrogate’s Court proceedings and counties as specified by order of the Chief Administrator of the Courts. *This section shall apply only to those proceedings and counties.*

(b) Definitions. The following definitions shall be used for the purposes of these rules:

(1) “New York State Courts [E-filing] *Electronic Filing System*” (“NYSCEF”) shall mean the system, located at the Internet site at www.nycourts.gov/efile, established by the Chief Administrator [of

the Courts] to permit the electronic transmission of documents to courts and parties in authorized cases.

(2) “Consent” shall mean the voluntary agreement by an attorney or party to an estate proceeding to participate in that [estate] proceeding through NYSCEF pursuant to these rules.

(3) “Document” shall mean any submission to the court for filing.

(4) “Electronic filing” (“e-filing”) shall mean the electronic transmission of documents through NYSCEF to the Surrogate’s Court.

(5) “Electronic service” (“e-service”) shall mean the electronic transmission of documents to a party or that party’s attorney or representative in accordance with these rules. E-service shall not include service of process to gain jurisdiction. E-service shall be complete upon transmission of documents to NYSCEF.

(6) “E-filer” shall mean an attorney admitted to practice in New York State [and who maintains an office in this state], or admitted pro hac vice, or an authorized agent thereof, or a pro se party, any of whom is registered as an e-filer with NYSCEF as set forth below.

(7) “Hard copy” shall mean a document in paper form.

(8) “Party” shall mean an individual or entity who has an interest in the proceeding and without whom the case may not proceed.

(9) “Authorized agent” shall mean a person or filing service company designated by an attorney to file and serve documents on the attorney’s behalf in an estate proceeding, pursuant to a form promulgated by the Chief Administrator [of the Courts] and filed [with the court] *as provided therein*.

(10) “*Working copy*” shall mean a hard copy that is an exact copy of a document that has been electronically filed in accordance with this section.

(c) Intent.

(1) E-filing is voluntary and nothing herein shall preclude a party from filing and serving documents in hard copy. Except as provided in subdivision (e)(9), a party who initiates a proceeding by e-filing and any other party who chooses to participate as an e-filer must thereafter file, serve, and accept service of all documents electronically unless notice is given to the court and all other parties that the party no longer wishes to participate electronically.

(2) The court may terminate, modify, or suspend the use of e-filing in a proceeding at any time and may in its discretion excuse an e-filer from compliance with any provision of these rules.

(3) A party or that party’s attorney or representative who participates as an e-filer consents to be bound by the provisions of these rules, and participates at the discretion of the Court.

(d) E-filers.

(1) In order to file documents electronically pursuant to these rules, an e-filer shall register with the Office of Court Administration of the New York State Unified Court System by filing with that Office a registration form promulgated by the Chief Administrator [of the Courts]. Upon completion of registration, a user ID and password will be issued to the e-filer by NYSCEF. If, during the course of the proceeding, a pro se party who registered as an e-filer retains an attorney, the attorney shall register, if not already registered as an e-filer, and inform the Chief Clerk of his or her appearance on behalf of the pro se party.

(2) Registration as an e-filer shall not constitute consent to participate in any particular estate proceeding; consent to do so must be provided pursuant to subdivision (b)(2).

(3) Upon learning of the compromise of the confidentiality of either the user ID or the password, the e-filer shall immediately notify NYSCEF, which shall arrange for the issuance of a new user ID or password as appropriate.

(e) Electronic Filing of Documents.

(1) An eligible proceeding may be commenced by filing the initial documents electronically, or may become an e-filed proceeding after commencement upon the filing of documents electronically pursuant to these rules. A party commencing a proceeding electronically, or the party first filing electronically, shall serve all other parties with a Notice regarding the use of e-filing and the procedure for participating therein in a form approved by the Chief Administrator [of the Courts], which may be obtained through NYSCEF. Such Notice shall be served, in person or by regular mail, prior to the return date of the

citation. Proof of service of such Notice shall be promptly filed with the court.

(2) Whenever documents are e-filed that require payment of a court filing fee, the e-filer shall pay such fee through NYSCEF, or by mail, or in person.

(3) Documents may be transmitted at any time to NYSCEF and will be deemed filed when transmission to NYSCEF is complete and payment of any court filing fee due is received by the court. A document due to be filed by a particular date shall be considered to have been timely filed if filed through NYSCEF no later than midnight of that date.

(4) Upon completion of transmission of an e-filed document, an electronic confirmation that includes the date and time of receipt shall be issued through NYSCEF to the e-filer.

(5) Receipt of documents submitted through NYSCEF and issuance of a confirmation shall not be proof of the completeness or technical or legal sufficiency of the documents. If the court identifies any defects as to form, or omissions, in any e-filed documents, the court may direct that the e-filer resubmit them in proper and complete form or amend or supplement them as appropriate.

(6) If an e-filer submits a petition for probate for which the court does not already have in its possession the original purported last will and testament and any codicils thereto being offered for probate, the e-filer shall file directly with the court the paper original purported last will and testament and any codicils thereto and a hard copy of [a certified] *the death certificate, attorney certified if required by the court*, within two business days of the date of e-filing. Except as otherwise directed by the court, process shall not issue nor shall a fiduciary be appointed before the original purported last will and testament, any codicils thereto and [certified] *the appropriate death certificate* are filed with the court.

(7) If an e-filer submits a petition for administration the e-filer shall file a hard copy of [a certified] *the death certificate, attorney certified if required by the court*, directly with the court within two business days of the date of e-filing. Except as otherwise directed by the court, process will not issue nor shall a fiduciary be appointed before the [certified] *appropriate death certificate* is filed with the court.

(8) Whenever a document is e-filed pursuant to this section, the official record of that document shall be the electronic record maintained by the court.

(9) Documents that cannot be e-filed because of size, content, format, or any other reasons satisfactory to the court shall be filed in hard copy directly with the court together with, when required, an affidavit of service upon all parties to the proceeding.

(10) *When filing a document in hard copy pursuant to these rules, the filer shall firmly affix thereto a notice of hard copy filing indicating the basis for filing in that form.*

(11) *The court may require that working copies of documents be filed with the court. When filing a working copy, the filer shall firmly affix thereto a notice identifying the document as a working copy and indicating that the document has been e-filed.*

(f) Signatures.

(1) Every document which is e-filed shall be signed as required by Part 130 of the [Uniform] Rules of the Chief Administrator in accordance with this section. The document shall provide the signatory's name, address, e-mail address of record and telephone number.

(2) A document shall be considered to have been signed by, and shall be binding upon, a person identified therein as a signatory, if it is e-filed bearing the actual signature of such person, or, where the person identified as the signatory is the e-filer and the document is being e-filed under the e-filer's user ID and password, an "/s/" is used in the space where the signature would otherwise appear. An attorney or party who e-files a document that bears an actual signature, or causes such a document to be e-filed, represents that he or she possesses the executed hard copy of such document and that he or she shall make it available at the request of the court or any party.

(g) Service of Parties.

(1) An attorney or party seeking to obtain jurisdiction over a party to a proceeding shall serve that party by any of the methods permitted by the SCPA.

(2) In all other instances where service of documents is required, e-service may be made upon any party who is an e-filer in the proceeding. Upon e-filing of any such document, NYSCEF shall transmit notification of filing of the document to all e-mail service addresses of record. Such notification shall provide the date and time of filing and the names of those appearing on the list of e-mail service addresses of record who are receiving notification. The party receiving the notification shall be responsible for accessing NYSCEF to obtain a copy of the document filed. Proof of transmission to the party or the failure thereof shall be recorded by NYSCEF and displayed in the e-filing case record.

(h) Documents Filed by the Court. Decrees, judgments, orders, and decisions in proceedings governed by these rules shall be electronically filed by the court with the appropriate signature affixed and such e-filing shall constitute filing of the decree, judgment, [or] order, *or decision*. At the time of the filing of the decree, judgment, order, or decision, NYSCEF shall transmit by e-mail to the e-mail service addresses of record a notification that the decree, judgment, order, or decision has been filed and is accessible through NYSCEF. Such notice shall not constitute service of notice of filing by any party.

(i) Technical Failures.

(1) The Chief Clerk shall deem NYSCEF to be subject to a technical failure on a given date if NYSCEF is unable to accept filings or provide access to filed documents continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon of that day. The court shall provide notice of all such technical failures on the NYSCEF site. When e-filing is hindered by a technical failure, a party may file with the court in hard copy. With the exception of deadlines that by law cannot be extended, the time for filing of any paper that is delayed due to the technical failure as defined herein shall be extended for one day for each day in which such technical failure occurs, unless otherwise ordered by the court.

(2) If the e-filing or e-service does not occur *or is prevented* because of any of the following, the court may upon satisfactory proof enter an order permitting the document to be filed nunc pro tunc to the date it was first attempted to be sent electronically or extending the date for filing or service of the paper: an error in the transmission of the document to NYSCEF or served party which was unknown to the sending party; the party was erroneously excluded from the service list; or other technical problems experienced by the e-filer, *including problems with the filer's equipment or Internet connection.*

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AMENDMENT OF RULE

Uniform Civil Rules for the Surrogate's Court

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby adopt, effective immediately, a new section 207.4-aa of the Uniform Civil Rules for the Surrogate's Court, relating to mandatory electronic filing of actions in the Surrogate's Court, to read as follows:

* * *

207.4-aa. Electronic Filing in Surrogate's Court; Mandatory Program.

(a) *Application. There is hereby established a pilot program in which all documents filed and served in Surrogate's Court proceedings and counties specified by order of the Chief Administrator of the Courts shall be filed and served electronically. Except to the extent that this section shall otherwise require, the provisions of section 207.4-a of these rules shall govern this program.*

(b) *Commencement of Proceedings Under this Section.*

(1) *Mandatory commencement in general. Except as otherwise provided in this section, every proceeding specified in subdivision (a) of this section shall be commenced by electronically filing the initiating documents with the clerk of the court through the NYSCEF site.*

(2) *Emergency exception. Notwithstanding paragraph (1) of this subdivision, a proceeding required to be commenced electronically may be commenced by the filing of initiating documents in hard copy provided that such documents are accompanied by the affirmation or affidavit of the filing attorney or party stating that: (i) the statute of*

limitations will expire on the day the documents are being filed or on the following business day; and (ii) the attorney, party, or filing agent therefor is unable to electronically file such documents because of technical problems with his or her computer equipment or Internet connection. In the event a filer shall file initiating documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (10) of subdivision (e) of section 207.4-a of these rules, and the filer shall file those documents with the NYSCEF site within three business days thereafter, unless the clerk of court elects to e-file the documents on behalf of the filer. For purposes of this section, such a proceeding shall be deemed to have been commenced electronically.

(3) *Service of process.* Service of process upon a party in a proceeding that must be commenced electronically in accordance with this section shall be made as provided in Article 3 of the Surrogate's Court Procedure Act, or by electronic means if the party served agrees to accept such service. Such service shall be accompanied by a notice, in a form approved by the Chief Administrator, advising the recipient that the proceeding is subject to electronic filing pursuant to this section. A party served by electronic means shall, within 24 hours of service, provide the serving party or attorney with an electronic confirmation that the service has been effected.

(c) *Filing and Service of Documents After Commencement in Proceedings Under this Section.*

(1) All documents to be filed and served electronically. Except as otherwise provided in this section, filing and service of all documents in a proceeding that has been commenced electronically in accordance with this section shall be by electronic means.

(2) *Emergency exception.* Notwithstanding paragraph (1) of this subdivision, where documents are required to be filed and served electronically in accordance with such paragraph (1), such documents may nonetheless be filed and served in hard copy provided that they are accompanied by the affirmation or affidavit of the filing attorney or party stating that: (i) a deadline for their filing and service fixed by statute, rule, or order of the court will expire on the day the documents are being filed or served or on the following business day; and (ii) the attorney, party, or filing agent therefor is unable to file and serve such documents electronically because of technical problems with his or her computer equipment or Internet connection. In the event a filer shall file and serve documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (10) of subdivision (e) of section 207.4-a, and the filer shall file those documents with the NYSCEF site within three business days thereafter, unless the clerk of court elects to e-file the documents on behalf of the filer.

(d) *Clerk of Court Not to Accept Hard Copies of Documents for Filing Where Electronic Filing Is Required.* The clerk of the court shall refuse to accept for filing hard copies of documents sought to be filed in proceedings where such documents are required to be filed electronically.

(e) *Exemption From the Requirement of Electronic Filing.* Notwithstanding the foregoing, an attorney or a party who is not represented by an attorney in a proceeding that is required to be commenced electronically may claim exemption from having to file and serve documents electronically in accordance with this section by filing with the clerk of the court in which the proceeding is or will be pending a form, to be prescribed by the Chief Administrator, on which:

(1) if an attorney, he or she certifies, in good faith that he or she:

(i) lacks the required computer hardware and/or connection to the Internet and/or scanner or other device by which documents may be converted to an electronic format; or

(ii) lacks the requisite knowledge in the operation of such computers and/or scanners necessary to comply with this section (for purposes of this paragraph, the knowledge of any employee of an attorney, or any employee of the attorney's law firm, office or business who is subject to such attorney's direction, shall be imputed to the attorney); or

(2) he or she indicates that he or she is not represented by an attorney and wishes to be exempt from having to file and serve documents electronically in accordance with this section. Nothing in this section shall prevent a judge from exempting an attorney from having

to file and serve documents electronically in accordance with this section upon a showing of good cause therefor.

Where an attorney or party in a proceeding that is subject to this section is exempt from having to file and serve documents electronically in accordance with this section, he or she shall serve and file documents in hard copy, provided that each such document shall include the notice required by paragraph (10) of subdivision (e) of section 207.4-a of these rules. Notwithstanding the foregoing, all other attorneys and parties in such proceeding shall continue to be required to file and serve documents electronically, except that, whenever they serve documents upon a person or party who is exempt from having to file and serve documents electronically in accordance with this section, they shall serve such documents in hard copy and shall file electronically proof of such service.

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AMENDMENT OF RULE

Rules of the Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the 10th day of January 2012.

Present, HON. JONATHAN LIPPMAN, Chief Judge, presiding. In the Matter of The Amendment of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law.

Pursuant to section 53 of the Judiciary Law, it is hereby

ORDERED, that sections 520.3, 520.4, 520.5 and 520.6 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law (22 NYCRR §§ 520.3, 520.4, 520.5, 520.6) are amended, effective April 1, 2012, or as soon thereafter as section 52 of the Judiciary Law is complied with, by deleting the bracketed material and adding the underlined material.

§ 520.3 Study of law in law school.

(a) General. [(1) Except as otherwise provided in paragraph (2) of this subdivision, a] An applicant may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof that:

(1) the applicant attended and was graduated with a first degree in law from an *approved* law school; or [law schools which at all times during the period of applicant's attendance was or were approved.]

(2) [An] the applicant [may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof that applicant] attended and successfully completed the prescribed course of instruction required for a first degree in law at an *approved law school*, but has not been awarded the degree as of the date proof of eligibility to sit for the bar examination is required to be filed with the State Board of Law Examiners. [t]The State Board of Law Examiners shall not certify the applicant for admission to the bar pursuant to section 520.7(a) of this Part until the applicant has presented [a certificate showing] *satisfactory proof* that the applicant has been awarded a first degree in law.

(b) *Approved law school defined.* For purposes of these rules, [A]an approved law school [for purposes of these rules] is one:

(1) that is approved by the American Bar Association at all times during the period of the applicant's attendance; [whose program and course of study meet the requirements of this section, as shown by the law school's bulletin or catalogue, which shall be filed annually with the Clerk of the Court of Appeals; and]

(2) [which is approved by the American Bar Association.] that is located in the United States or its territories; and

(3) whose program and course of study meet the requirements of this section, as shown by the law school's bulletin or catalogue, which shall be filed annually with the Clerk of the Court of Appeals and the State Board of Law Examiners, or the publicly available pages of the law school's website, which shall adequately describe each course offered and completely set forth the law school's academic calendar and graduation requirements.

(c) *Instructional requirements.*

(1) [An approved] The law school shall require for its first degree in law the successful completion of [either a full-time or a part-time] a program [which consists of] that prepares its students for admission

to the bar and effective, ethical and responsible participation in the legal profession, and meets each of the following requirements:

(i) a minimum of [80] 83 [semester] credit hours [of credit, including at least 60 semester hours in professional law subjects. A maximum of 20 of the required 80 semester hours may be courses related to legal training or clinical courses as provided in paragraphs (2) and (5) of this subdivision; and] *must be required for graduation, including substantial instruction in substantive and procedural law and professional skills;*

(ii) [at least 1,120 hours of classroom study, exclusive of examination time.] *a minimum of 64 of the required 83 credit hours must be earned by attendance in regularly scheduled classroom courses at the law school; and*

(iii) *a minimum of two credit hours must be earned in a course or courses in professional responsibility.*

[(2) Other courses related to legal training taught by members of the faculty of said law school or university, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, may, in the discretion of the law school, be substituted for professional law subjects to the extent of no more than 10 of the required 80 semester hours.]

[(3) No credit shall be allowed for correspondence courses.]

[(4) All study shall be evaluated by authentic written examination, except where such examination is inappropriate, such as in seminar and practice court courses or courses which are principally concerned with legal writing and research.]

[(5) Clinical and like courses may, in the discretion of the law school, be substituted for classroom periods to the extent of no more than 20 of the required 80 semester hours, where:]

[(i) a description of the course has been filed with the Clerk of the Court of Appeals, either separately or in the law school's annual catalogue or bulletin;]

[(ii) the course is under the direct and immediate supervision of a member or members of the faculty;]

[(iii) the course includes adequate classroom meetings or seminars during the same semester in which the clinical work is completed in order to insure contemporaneous discussion, review and evaluation of the clinical experience; and]

[(iv) the law school certificate of attendance filed with the New York State Board of Law Examiners lists separately the credit allowed for clinical courses or other nonclassroom study.]

[(d) Full-time program defined. A full-time program shall consist of at least 75 and no more than 105 calendar weeks in residence, including reading periods not to exceed one week per semester and examinations, of at least 10 classroom periods per week, scheduled principally between the hours of 8 a.m. and 6 p.m., totaling not less than the equivalent of 1,120 hours of classroom study, exclusive of examination time. A calendar week shall include four days of scheduled classes; however, no more than three three-day weeks per semester may be counted toward the 75-week minimum. A semester which includes successful completion of at least 10 credit hours per week of study shall be counted as 15 full-time weeks in residence toward the residency weeks requirement of this subdivision. As allowed under subdivision (h) of this section, a summer session which includes successful completion of at least five credit hours per week of study shall be counted as 7.5 full-time calendar weeks in residence toward the residency weeks requirement of this subdivision.]

[(e) Part-time program defined. A part-time program shall consist of at least 105 and no more than 135 calendar weeks in residence, including reading periods not to exceed one week per semester and examinations, of at least eight classroom periods per week, irrespective of the hours at which the classroom periods are scheduled, totaling not less than the equivalent of 1,120 hours of classroom study, exclusive of examination time. A calendar week shall include three days of scheduled classes; however, no more than three two-day weeks per semester may be counted toward the 105-week minimum. A semester which includes successful completion of at least 8 credit hours per week of study shall be counted as 15 part-time weeks in residence toward the residency weeks requirement of this subdivision. As allowed under subdivision (h) of this section, a summer session which

includes successful completion of at least 4 credit hours per week of study shall be counted as 7.5 part-time calendar weeks in residence toward the residency weeks requirement of this subdivision.]

[(f) Successful completion defined. Complete credit for an academic year, semester, quarter or summer session in an approved law school in which one or more courses have been failed shall not be given until the passing grades in the courses failed have been earned, or substitute courses successfully completed, or unless the failures are compensated for by a sufficiently high average for the same academic year, semester, quarter or summer session under acceptable regulations established by the law school in which the applicant is matriculated.]

[(g) Transfer from one law school program to another. A student may transfer from a full-time to a part-time program, or from a part-time to a full-time program, at the end of any semester, quarter or other complete academic session. In computing residence credit:]

[(1) each week of a full-time program shall be deemed equal to one and one-third weeks of a part-time program; and]

[(2) each week of a part-time program shall be deemed equal to three fourths of a week of a full-time program.]

[(h) Summer session. Credit may be given for successful completion of courses taken in summer session only if such session is approved by the dean of the law school in which the applicant is matriculated.]

(2) Clinical courses. Credit may be granted toward the 83 credit hours required for graduation for law school clinical courses. Such credit may be counted toward the 64 classroom credit hours required by paragraph (1)(ii) of this subdivision, provided:

(i) the course includes adequate classroom meetings or seminars during the same semester in which the clinical work is completed in order to ensure contemporaneous discussion, review and evaluation of the clinical experience;

(ii) the clinical work is conducted under the direct supervision of a member of the law school faculty; and

(iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.

(3) Field placement programs or externships. Credit may be granted toward the 83 credit hours required for graduation for field placement programs or externships but such credit may not be counted toward the 64 classroom hours required by paragraph (1)(ii) of this subdivision, except that credit separately awarded for the classroom instructional component of a field placement program or externship taught by a member of the law school faculty may be counted toward the 64 classroom credit hour requirement.

(4) The total number of credit hours granted for law school clinical courses, field placement programs and externships, including classroom components, may not exceed 30 of the 83 credit hours required for graduation.

(5) Joint degree or other courses taught outside the law school. The law school may grant credit for up to 12 of the 83 credit hours required for graduation for courses taught by members of the faculty of any university or college with which the law school is affiliated or offers a joint degree program, or with which the law school has an agreement which allows courses to be taken at such university or college for credit at the law school. Credit granted for such courses may not be counted toward the 64 classroom credit hours required by paragraph (1)(ii) of this subdivision.

(6) Distance education. Distance education is an educational process in which more than one-third of the course instruction is characterized by the separation, in time or place, or both, between instructor and student, and technology is used to deliver instruction.

(i) Up to 12 credit hours for distance education courses may be counted toward both the 83 credit hours required for graduation and the 64 classroom credit hours required by paragraph (1)(ii) of this subdivision, provided that:

(a) the study is offered in a primarily synchronous manner, such that students and the instructor simultaneously interact in a regularly scheduled class, albeit from separate locations, by means of on-line web-conferencing, video-conferencing, or other means, so as to provide students opportunities to interact with instructors and other

students that are comparable to opportunities for such interaction in non-distance learning settings; and

(b) there is regular monitoring of student effort and accomplishment as the course progresses.

(ii) No credit shall be allowed for correspondence courses.

(iii) No credit shall be allowed for distance education courses offered principally by asynchronous means, where students and the instructor are separated in time as well as in place, including pre-recorded, non-interactive technologies, such as on-line courses, internet videos, videocassettes or discs.

(iv) No credit shall be allowed for distance education courses until the student has completed the equivalent of 28 credit hours toward the first degree in law, and no more than four credit hours shall be allowed for such courses in any semester of study.

(7) The law school certificate of attendance filed with the State Board of Law Examiners must list separately the credit awarded for:

(i) clinical courses under paragraph (2) of this subdivision;

(ii) field placement programs and externships under paragraph (3) of this subdivision and, if credit is separately awarded for a classroom instructional component of such a program taught by a member of the law school faculty, such credit shall be separately listed;

(iii) joint degree or other courses taught outside the law school under paragraph (5) of this subdivision; and

(iv) distance education courses under paragraph (6) of this subdivision.

(d) Course of study and academic calendar. An approved law school shall meet the following academic schedule and credit hour requirements:

(1) the law school's academic year must consist of no fewer than 130 days on which classes are regularly scheduled, during no fewer than eight calendar months;

(2) a minimum of 700 minutes of instruction time, exclusive of examination time, must be required for the granting of one credit hour;

(3) an approved law school on an academic calendar other than a conventional two-semester schedule must require a course of study consistent with the credit hour, class days and minutes of instruction required in this Rule;

(4) an approved law school shall require that the program and course of study leading to a first degree in law be completed no earlier than 24 months and no later than 60 months after a student has commenced law study at the law school or a law school from which the school has accepted transfer credit; and

(5) an approved law school shall not permit a student to be enrolled at any time in coursework that, if successfully completed, would exceed 20 percent of the total coursework required by that law school for graduation (or a proportionate number for law schools on other academic schedules).

([i]e) Credit for law study in foreign country. An approved law school may, in its discretion, [allow] grant such credit as it may deem appropriate [determine] toward the total credits required for a first degree in law, but not exceeding one-third of the total credits required for the degree, to an applicant who has studied law in a law school in a foreign country.

§ 520.4 Study of law in law office.

(a) General. An applicant may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof that:

(1) [that] the applicant commenced the study of law after the applicant's 18th birthday; [and]

(2) [that] the applicant successfully completed [at least one academic year as a matriculated student in a full-time program or the equivalent in a part-time program] the prescribed requirements of the first year of full-time study in a first degree in law program at an approved law school as defined in section 520.3(b) of this Part, whether attending full-time or part-time, earning a minimum of 28 credit hours (the threshold period) [and at the conclusion thereof was eligible to continue in that school's degree program]; [and]

(3) at the conclusion of the threshold period the applicant was in

good standing, not on academic probation, and was eligible to continue in the law school's degree program;

(4) the threshold period was completed within 36 months of the commencement of law school study; and

([3]5) [that] the applicant thereafter studied law in a law office or offices located within New York State, under the supervision of one or more attorneys admitted to practice law in New York State, for such a period of time as, together with the credit [allowed] permitted pursuant to this section for attendance in an approved law school, shall aggregate four years.

(b) Employment and instruction requirements. An applicant studying law in a law office or offices within New York State must be actually and continuously employed during the required period as a regular law clerk and student in a law office, under the direction and subject to the supervision of one or more attorneys admitted to practice law in New York State, and must be actually engaged in the practical work of such law office during normal business hours. In addition, the applicant must receive instruction from [said] the supervising attorney or attorneys in those subjects [which] that are customarily taught in approved law schools.

(c) Credit for attendance in approved law school. Credit shall be allowed [for attendance in an approved law school] toward the required four years of combined law school and law office study in accordance with subdivision (a) as follows:

(1) [credit of] one full year [or] (52 weeks) of credit shall be allowed for [any] successfully [completed year of a full-time law school program] completing the threshold period;

(2) [credit of three quarters of a year or 39 weeks shall be allowed for any successfully completed year of a part-time law school program] following the threshold period, two weeks of credit shall be allowed for every additional successfully completed credit hour at an approved law school, but only if at the conclusion of the semester in which the credits were earned the applicant was in good academic standing, was not on academic probation and was eligible to continue in the school's degree program.[:]

(3) proportionate credit shall be allowed for any successfully completed semester, quarter or summer session in such a full-time or part-time law school program;]

(4) for any period of law school study not successfully completed, credit may be allowed for attendance as determined by the New York State Board of Law Examiners based on an evaluation of performance in the individual case.]

(d) Vacations. Vacations taken by the applicant in excess of one month in any year of law office study shall be deducted from the period of law office study for which credit shall be given, but [failure by] if the applicant [to] does not take a vacation [shall not decrease] there will not be an adjustment in the period of study required by this section.

(e) Certificate of commencement of law office study. It shall be the duty of the attorney or attorneys with whom a period of law office study is about to be commenced to obtain from, complete and file with, the Clerk of the Court of Appeals a certificate of commencement of clerkship, Appendix B-2, infra. At the time the certificate of commencement of clerkship is filed, the applicant shall provide the Court of Appeals with a copy of the determination of the [New York] State Board of Law Examiners of the credit to which the applicant is entitled under subdivision (c) of this section.

(f) Credit for law study in law office. Credit shall be given only for study in a law office or offices [completed subsequent to] engaged in after the successful completion of the threshold period of law school study and after the filing of the certificate required by subdivision (e) of this section.

(g) Proof required. Compliance with the requirements of this section shall be proved to the satisfaction of the [New York] State Board of Law Examiners.

§ 520.5 Study of law in law school and actual practice.

(a) General. An applicant who has studied law in any law school in any other state or territory of the United States or in the District of Columbia, other than a law school [which] that grants credit for correspondence courses, and has received a degree from such law school

[which] *that* qualifies [such] *the* applicant to practice law in such state, territory or in the District of Columbia, may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof *that*:

(1) [that] *the* applicant possesses the legal education required by this [section] *Part*;

(2) [that] *the* applicant's course of study complies with the instructional, [and program] *course of study, and academic calendar* requirements of section 520.3(c) through [(i)e] of this Part; and

(3) [that] while admitted to the bar in the highest court in any state or territory of the United States or in the District of Columbia, *the* applicant has actually practiced therein for at least five years of the seven years immediately preceding the application to sit for the bar examination.

(b) Proof required. The applicant shall submit to the [New York] State Board of Law Examiners such proof of compliance with the provisions of this section as the [b]Board may require.

§ 520.6 Study of law in foreign country; required legal education.

(a) General. An applicant who has studied in a foreign country may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof of the legal education required by this section.

(b) Legal education. *The applicant must satisfy the educational requirements of either paragraph (1) or (2) of this subdivision.*

(1) The applicant shall show fulfillment of the educational requirements for admission to the practice of law in a country other than the United States by successful completion of a period of law study [at least substantially equivalent in duration to that required under section 520.3(d) and (e) of this Part,] in a law school or schools each of which, throughout the period of *the* applicant's study therein, was [recognized] *approved* by the [competent] *government or an authorized* accrediting [agency of the government of] *body* in such [other] country, or of a political subdivision thereof, [as qualified and approved] *to award a first degree in law, [;] and satisfaction of the following requirements:*

(i)(a) *Durational requirements. The program and course of law study successfully completed by the applicant was substantially equivalent in duration to the legal education provided by an American Bar Association approved law school in the United States, and in substantial compliance with the instructional and academic calendar requirements of section 520.3(c)(1)(i) and (ii) and (d)(2) of this Part; and*

(b) *Substantive requirements. [that s]Such other country is one whose jurisprudence is based upon the principles of English Common Law, and that the program and course of law study successfully completed by the applicant were the substantial equivalent of the legal education provided by an American Bar Association approved law school in the United States. [; or]*

(ii) *Cure provision. [if] An applicant who does not meet the [durational equivalency] requirements of [this] subparagraph (i)(a) or (i)(b) [but has at least two years of substantively equivalent education, or if applicant does not meet the requirements of subparagraph (i) of this paragraph, applicant] may cure either the durational or substantive deficiency, but not both, [by satisfactory proof that applicant has a full-time or part-time LL.M. (Master of Laws) degree program at an approved law school in the United States meeting the requirements of paragraph 3 of this subdivision; or] under the following circumstances:*

(a) *Durational deficiency. If the applicant does not meet the durational requirements of subparagraph (i)(a), the applicant may cure the deficiency by providing satisfactory proof that the applicant has at least two years of foreign legal education that meets the substantive requirements of subparagraph (i)(b) and that the applicant has graduated from an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.*

(b) *Substantive deficiency. If the applicant does not meet the substantive requirements of subparagraph (i)(b), the applicant may cure the deficiency by providing satisfactory proof that the applicant meets the durational requirements of subparagraph (i)(a) and that the applicant has graduated from an LL.M. degree program at an Ameri-*

can Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.

(2) The applicant shall show admission to practice law in a country other than the United States whose jurisprudence is based upon principles of English Common Law, where admission was based upon a program of study in a law school and/or law office [recognized by the competent accrediting agency of] *approved* by the government or an authorized accrediting body in [of] such [other] country, or of a political subdivision thereof, and which [is] *satisfies the durational[ly equivalent yet] requirements of subparagraph (1)(i)(a) but does not satisfy the substantive[ly deficient under] requirements of subparagraph (1)(i)(b) of this subdivision, and that such applicant has successfully completed an [full-time or part-time] LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.*

(3) An LL.M. degree shall be satisfactory to qualify an applicant otherwise meeting the requirements of subsections (b)(1)(ii) or (b)(2) to take the New York State bar examination provided the following requirements are met:

(i) the program shall consist of a minimum of 24 [semester] *credit* hours [of credit] (or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system) which, except as otherwise permitted herein, shall be in classroom courses at the law school in substantive and procedural law and professional skills; [and]

(ii) a minimum of 700 minutes of instruction time, exclusive of examination time, must be required for the granting of one [semester of] *credit hour*; [and]

(iii) the program shall include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, but a maximum of four [semester] *credit* hours [of credit] may be earned in courses completed during summer semesters; [and]

(iv) the program shall be completed within 24 months of matriculation; [and]

(v) all coursework for the program shall be completed at the campus of an American Bar Association approved law school in the United States, except as otherwise expressly permitted by subdivision (b)(3)(vii); [and]

(vi) the program completed by *the* applicant shall include:

(a) a minimum of two [semester] *credit* hours [of credit in the history, goals, instruction, value, rules and responsibilities of the United States legal profession and its members] *in a course or courses in professional responsibility*; [and]

(b) a minimum of two *credit* [semester] hours [of credit] in legal research, writing and analysis, which may not be satisfied by a research and writing requirement in a substantive law course; [and]

(c) a minimum of two *credit* [semester] hours [of credit] in American legal studies, the American legal system or a similar course designed to introduce students to distinctive aspects and/or fundamental principles of United States law, which may be satisfied by a course in United States constitutional law or United States or state civil procedure; credit earned in such course in excess of the required two *credit* [semester] hours [of credit] may be applied in satisfaction of the requirement of subdivision (b)(3)(vi)(d); and

(d) a minimum of six *credit* [semester] hours [of credit] in other courses in subjects tested on the New York State bar examination, where a principal focus of the courses includes material contained in the Content Outline for the New York State bar examination published by the [New York] State Board of Law Examiners.

(vii) The program completed by *the* applicant may include:

(a) a maximum of four [semester] *credit* hours [of credit] in clinical courses, provided (1) the clinical course includes a classroom instructional component in order to ensure contemporaneous discussion, review and evaluation of the clinical experience; (2) the clinical work is done under the direct supervision of a member of the law school faculty [or instructional staff whose primary professional employment is with the law school]; and (3) the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and

(b) a maximum of six [semester] *credit* hours [of credit] in other courses related to legal training taught by members of the faculty of the law school or of the university with which the law school is affiliated, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, provided such courses must be completed at the campus of such university or college in the United States.

(viii) No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.

(c) Proof required. The applicant shall submit to the [New York] State Board of Law Examiners such proof of compliance with the provisions of this section as the [b]Board may require.

(d) Effective date for implementation. [The provisions of existing Rule 520.6 shall continue to apply to those applicants applying to take a bar examination prior to the July 2013 bar examination,] [e]Except for [that] the requirements of subdivisions (b)(3)(iii), (v) and (viii), which are effective [immediately] *May 18, 2011*, the [All other] provisions of [this amended] Rule *520.6(b)(3)* shall first apply to *LL.M.* programs commencing during the 2012-13 academic year and to applicants applying to take the July 2013 bar examination, subject to the saving clause of Rule 520.1(b).