

§ 3-803. Membership.

(A) Requirements and Records of Membership.

(1) All persons who, on the date that these rules go into effect, are admitted to the practice of law in this State, by order of the Nebraska Supreme Court, shall constitute the members of this Association, subject to due compliance with the requirements for membership hereinafter set forth, including payment of mandatory membership assessments as may be fixed by the Nebraska Supreme Court.

(2) The Administrator of Attorney Services Division, who shall be an employee of the Nebraska Supreme Court, shall maintain all records of membership of the Association and perform all other duties and responsibilities required by the Supreme Court and these rules.

(B) Classes. Members of this Association shall be divided into five classes, namely: Active members, Inactive members, Disability Inactive members, Law Student members, and Emeritus members.

(1) All members who are licensed to engage in the active practice of law in the State of Nebraska, who do not qualify for and apply for Inactive membership status, and who are not Law Student members, shall be Active members.

(2) Any member who is not actively engaged in the practice of law in the State of Nebraska, or who is a nonresident of the State of Nebraska and not actively engaged in the practice of law in Nebraska, and who is not an Emeritus member, may, if he or she so elects, be placed in Inactive membership status; in the event the member has an impairment which prevents an active law practice, the member may apply for Disability Inactive membership which alleviates the need to pay annual inactive dues during the period of disability. The application and supporting information shall be confidential pursuant to Neb. Ct. R. § 3-318(D)(2). An order granting the application shall be public pursuant to § 3-318(D)(2).

A member desiring to be placed in any Inactive membership status shall file a written application therefor with the Administrator of Attorney Services Division and, if otherwise qualified, shall be placed in such inactive status classification. No Inactive members shall practice law in Nebraska, or vote or hold office in this Association. Any Inactive member may, on filing application with the Administrator of Attorney Services Division and upon payment of the required fees and dues, and compliance with such requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State as provided by § 3-803(F), become an Active member. The State Bar Commission shall conduct a review of the member's character and fitness and make a recommendation to the Court evincing the member's fitness to become an Active member. (Appendix A).

(3) Any member who attained the age of 75 years of age during the dues year being billed or has been actively engaged in the practice of law in the State of Nebraska for 50 years or more during the dues year being billed may, if he or she so elects, be placed in an Emeritus membership status. A member desiring to be placed in an Emeritus membership status shall file written application therefor with the Administrator of Attorney Services Division and, if otherwise qualified, shall be placed in the Emeritus status classification. A member electing

Emeritus classification shall not be required to pay membership dues to this Association. No Emeritus member shall practice law in Nebraska, or vote or hold office in this Association. Any Emeritus member may, on filing application with the Administrator of Attorney Services Division and upon payment of the required dues and compliance with the requirements as may be imposed by the Supreme Court to show fitness to engage in the active practice of law in this State, become an Active member.

(4) Except for the right reserved by law to litigants to prosecute or defend a cause in person, or as provided elsewhere in these rules, no person other than an Active member of this Association shall engage in the practice of law in this State, or in any manner hold himself or herself out as authorized or qualified to practice law in this State. Any court in this State may, on motion and upon such person taking the oath required by Neb. Rev. Stat. § 7-104, allow a member of the Bar of any other state or jurisdiction, in good standing therein, to appear and participate in any particular action or proceeding then pending before such court (for purpose of such business only), upon it further being made to appear to the court, by written showing filed therein, that such person has associated with and is appearing in such action with an Active member of this Association upon whom service may be made in all matters connected with said action, with same effect as if personally made on such foreign attorney in this State; provided, regularly licensed practicing attorneys of other states, the laws of which permit practice in their courts of attorneys from this State, without a local attorney being associated with such attorneys, shall not be required to have an Active member of this Association associated with them in such action. (See Neb. Rev. Stat. § 7-103.)

(5) Nothing in these rules shall be construed to bar any Active member from the practice of law pursuant to the provisions of any rules of the Supreme Court authorizing the practice of law by a professional service corporation or a limited liability organization, subject to the limitations provided by such rules.

(6) In order to make information available to the public about the financial responsibility of each active member of this Association for professional liability claims, each such member shall, upon admission to the Bar, and as part of each application for renewal thereof, submit the certification required by this rule. For purposes of this rule, professional liability insurance means:

(a) The insurance shall insure the member against liability imposed upon the member arising out of a professional act, error, or omission in the practice of law.

(b) Such insurance shall insure the member against liability imposed upon the member by law for damages arising out of the professional acts, errors, and omissions of all nonprofessional employees employed by the member.

(c) The policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, exclusions, and other matters.

(d) The policy may provide for a deductible or self-insured retained amount and may provide for the payment of defense or other costs out of the stated limits of the policy.

(e) A professional act, error, or omission is considered to be covered by professional liability insurance for the purpose of this rule if the policy includes such act, error, or omission as a covered activity, regardless of whether claims previously made against the policy have exhausted the aggregate top limit for the applicable time period or whether the individual

claimed amount or ultimate liability exceeds either the per claim or aggregate top limit.

Each active member shall certify to the Nebraska Supreme Court, through its Administrator of Attorney Services Division, on or before January 20 of each year: 1) whether or not such member is currently covered by professional liability insurance, other than an extended reporting endorsement; 2) whether or not such member is engaged in the private practice of law involving representation of clients drawn from the public; 3) whether or not such member is a partner, shareholder, or member in a domestic professional organization as defined by the rule governing Limited Liability Professional Organizations, and 4) whether or not the active member is exempt from the provisions of this rule because he or she is engaged in the practice of law as a full-time government attorney or in-house counsel and does not represent clients outside that capacity.

The foregoing shall be certified by each active member of this Association annually through the Court's on-line system administered by the Attorney Services Division. Such certifications shall be made available to the public by any means designated by the Supreme Court. Failure to comply with this rule shall result in suspension from the active practice of law until such certification is received. An untruthful certification shall subject the member to appropriate disciplinary action. All members shall update the information within their on-line attorney services account within 30 days if 1) professional liability insurance providing coverage to the member has lapsed or is not in effect, or 2) the member acquires professional liability coverage as defined by this rule.

All certifications not received by April 1 of the current calendar year shall be considered delinquent. The Administrator of Attorney Services Division shall send written notice, by certified mail, to each member then delinquent in the reporting of professional liability insurance status, which notice shall be addressed to such member at his or her last reported address, and shall notify such member of such delinquency. All members who shall fail to provide the certification within 30 days thereafter shall be reported to the Supreme Court by the Administrator of Attorney Services Division, and the Supreme Court shall enter an order to show cause why such member shall not be suspended from membership in this Association. The Supreme Court shall enter such an order as it may deem appropriate. If an order of suspension shall be entered, such party shall not practice law until restored to good standing.

This rule shall not affect this Association, its rules, procedures, structure, or operation in any way; nor shall the adoption of this rule make this Association, its officers, directors, representatives, or membership liable in any way to any person who has suffered loss by error or omission of a lawyer. This rule is adopted solely for the purposes stated herein and not for the purpose of making this Association, its officers, directors, representatives, or membership insurers or guarantors for clients with respect to the lawyer-client relationship.

This rule does not create a claim against this Association, nor the Attorney Services Division of the Court, for failure to provide accurate information or a report on the insured status of any lawyer, or for implementation of any provision of these rules.

MANDATORY REPORTING OF WHETHER ATTORNEY POSSESSES PROFESSIONAL LIABILITY INSURANCE COVERAGE

I am engaged in the private practice of law involving representation of clients drawn from the public:

Yes____ No____

I am currently covered by a professional liability insurance policy other than an extended reporting endorsement:

Yes____ No____

I am currently a member of a professional corporation, limited liability company, or a limited liability partnership and maintain the insurance coverage required by the rule governing Limited Liability Professional Organizations:

Yes____ No____

I am engaged in the practice of law as a full-time government attorney or in-house counsel and do not represent clients outside that capacity, and therefore, I am exempt from the provisions of this rule.

Yes____ No____

? By checking this box, you certify to the Supreme Court that your answers to the foregoing are true and correct and you acknowledge the requirement that you will update this information within 30 days if 1) professional liability insurance providing coverage to the member has lapsed or is not in effect, or 2) you acquire professional liability coverage as defined by this rule.

(C) Registration. All members shall be automatically registered with the Administrator of Attorney Services Division upon admission and shall, within 60 days after being admitted to the practice of law by the Supreme Court of this State, access their on-line account with the Attorney Services Division and update or verify as necessary the member's full name, business address, e-mail address, and signature. All members shall promptly notify the Administrator of Attorney Services Division of any change in such address, phone number, or e-mail address by accessing and updating their personal information in the Court's on-line system.

(D) Mandatory Membership Assessments.

(1) Payment of Assessments. Each member shall pay mandatory membership assessments for each calendar year from January 1 to December 31 following, payable in advance on or before January 20 of each year, in such amounts as may be fixed by the Supreme Court pursuant to Neb. Ct. R. §§ 3-100(B), 3-301(E), and 3-1010(B). All such assessments due or paid after April 1, 2014, shall be paid to the Administrator of Attorney Services Division and shall be used for the administration and enforcement of the regulation of the practice of law by the Court. Beginning with the Mandatory Membership Assessments due for and after 2015, all payments shall be made through the Court's on-line system. Different classifications of assessments may be established for Active, Inactive, and Law Student members and for those members who have been admitted to the Bar of any State or other jurisdiction for a period of less than 5 years and for those members who are serving in the Armed Forces of

the United States, while so serving. Members newly admitted to this Association shall receive a complimentary membership for the remainder of the current calendar year. The annual mandatory membership assessments beginning calendar year 2014 shall be as follows:

Membership Class	§ 3-100(B) (Adm.)	§ 3-301(E) (Discipline)	§ 3-1010(B) (UPL)	Total
Regular Active*	\$25.00	\$60.00	\$13.00	\$98.00
Junior Active**	\$25.00	\$60.00	\$13.00	\$98.00
Senior Active***	\$25.00	\$60.00	\$13.00	\$98.00
Judicial Active****	\$25.00	\$60.00	\$13.00	\$98.00
Military Active*****	0	0	0	0
Regular Inactive	\$12.50	\$30.00	\$6.50	\$49.00
Emeritus Inactive	0	0	0	0

* (Members who have been admitted to the Bar of any State or other jurisdiction for more than 4 calendar years following the calendar year of admission.)

** (Members who have been admitted to the Bar of any State or other jurisdiction for 4 or fewer calendar years following the calendar year of admission.)

*** (Members 75 years of age or older during the assessments year being billed.)

**** (Members who serve in an active (nonretired) capacity on a trial or appellate bench at the federal or state level or in the Workers' Compensation Court.)

***** (Attorneys who are on continuous Active Military Service under title 10 or title 32 of the U.S. Code or State Active Duty under the jurisdiction of any state or territory of the United States at the beginning of any calendar year shall be exempt from payment of assessments for such year upon submitting to the Administrator of Attorney Services Division, prior to the date of delinquency provided for in this Article, satisfactory proof that he or she is so engaged; upon receipt of such proof, the Administrator of Attorney Services Division shall issue proof of membership status to the member under the classification held by the member prior to his or her induction in the service and shall cause the records of this Association to show that such proof was issued without payment of dues.)

(2) A late fee of \$25 shall be assessed each Active or Inactive member whose mandatory assessments are received after January 20, a late fee of \$50 shall be assessed on mandatory assessments received on or after February 1, and a late fee of \$75 shall be assessed on mandatory assessments received on or after March 1.

(3) Funds collected by mandatory assessments pursuant to Neb. Ct. R. §§ 3-100(B) and 3-1010(B) shall be used by the Nebraska Supreme Court's Administrator of Attorney Services Division and Counsel on Unauthorized Practice of Law for regulatory management and oversight as required by the Court under its constitutional and inherent authority.

(E) Delinquency and Reinstatement. All mandatory membership assessments not paid by April 1 of the current calendar year shall be considered delinquent; and the Administrator of Attorney Services Division shall send written notice, by certified mail, to each member then

delinquent in the payment of his or her assessments, which notice shall be addressed to such member at his or her last reported address, and shall notify such member of such delinquency. All members who shall fail to pay delinquent assessments within 30 days thereafter shall be reported to the Supreme Court by the Administrator of Attorney Services Division, and the Supreme Court shall enter an order to show cause why such member shall not be suspended from membership in this Association. The Supreme Court shall, after hearing thereon, enter such an order as it may deem appropriate. If an order of suspension shall be entered, such party shall not practice law until restored to good standing. Whenever a member suspended for nonpayment of mandatory membership assessments shall make payment of all arrears, and shall satisfy the Supreme Court of his or her qualification to then return to the active practice of law utilizing the process set forth in § 3-803(F), the attorney may request reinstatement. The Administrator of Attorney Services Division shall keep a complete record of all suspensions and reinstatements. No person, while his or her membership is suspended, shall be entitled to exercise or receive any of the privileges of membership in this Association.

(F) Suspension or Disbarment. Any member who shall be suspended or disbarred from the practice of law by the Supreme Court shall, during the period of such suspension or disbarment, be likewise suspended or barred from membership in this Association.

(1) Upon application for admission after a suspension or disbarment lasting longer than 8 months, the member shall submit to a character and fitness review before the State Bar Commission consisting of updating information the State Bar Commission uses to determine character and fitness to practice during the time of suspension or disbarment (Appendix A). The State Bar Commission shall collect a \$150 fee for its character and fitness investigation of each application for reinstatement.

(2) The State Bar Commission director shall make a character and fitness recommendation to the Court upon completion of the application process for each member applying for reinstatement from a gap in licensure of more than 8 months. In the event further inquiry as provided for in § 3-116(F) or a hearing before the State Bar Commission is required to determine a character and fitness recommendation, costs shall be taxed to the applying party.

(3) On reinstatement to practice by the Supreme Court, such party shall pay mandatory membership assessments for the year in which he or she is readmitted and all past due mandatory assessments and late fees owed at the time of the suspension or disbarment and complete any CLE requirements pursuant to Neb. Ct. R. § 3-401.12 prior to being restored to membership in this Association. Voluntary membership dues shall not be collected or assessed during suspension or disbarment periods or while an attorney is in retired/resigned status.

(G) Fees. Nothing herein contained shall be construed to limit the power of this Association, or of any of its sections or committees, to assess voluntary registration fees or attendance fees for meetings, institutes, or continuing legal education sessions as may be approved or determined from time to time by the House of Delegates or the Executive Council.

(H) Resignation. Any member may resign either active or inactive membership in this Association by tendering his or her written resignation to the Clerk of the Supreme Court of Nebraska on a form to be provided. This form shall include an affidavit to be completed by the member seeking to resign, stating that the member has not been suspended or disbarred in any other state or by any court; that the member has not voluntarily surrendered his or her

license to practice law in any other state or to any court in connection with any investigation or disciplinary proceeding against the member; that to the member's knowledge he or she is not then under investigation, nor has a complaint or charges pending against him or her with reference to any alleged violation of professional responsibilities as a lawyer; and that the member agrees to be subject to the jurisdiction of the Supreme Court for a period of 3 years from the date his or her resignation is accepted for the purpose of disciplinary proceedings for any alleged violation of his or her professional responsibilities as a lawyer. During this 3-year period, the acceptance of his or her resignation may be set aside by the Supreme Court upon application filed in the Supreme Court by the Counsel for Discipline. If the affidavit is completed, the Supreme Court may accept the resignation, provided the resigning member's mandatory membership assessments are not delinquent, or may accept it upon payment of any such delinquent assessments, unless the member seeking to resign has been suspended for the nonpayment of assessments as provided for in § 3-803(E), in which event the submitted resignation shall not be acted upon until the member seeking resignation has been reinstated as provided for in said section. In the event the affidavit is not fully completed, or any exception is taken to it, the tendered resignation shall be rejected. The Clerk shall keep a complete record of all requests for resignation and all resignations and shall report to the Administrator of Attorney Services Division the names and addresses of members whose resignations have been accepted by the Supreme Court.

(I) Reinstatement Following Resignation. Whenever a former member of this Association who resigned is readmitted to the practice of law in Nebraska by the Supreme Court pursuant to the process set forth in § 3-119(E), the member shall not pay mandatory membership assessments for the year in which he or she is readmitted, as the reinstatement application fee includes the mandatory assessment for the year of reinstatement.

(J) Voluntary Dues for Lobbying and Related Activities.

This Association may establish, collect, and use voluntary membership dues to analyze and disseminate to its members information on proposed or pending legislative proposals and any other nonregulatory activity intended to improve the quality of legal services to the public and promote the purposes of the Association as set forth in § 3-802.

Rule 3(B)(3) - (6), amended March 19, 2003, effective November 1, 2003; Rule 3(D)(1) amended February 25, 1998; Rule 3(D)(1) amended October 9, 1998; Rule 3(D)(1) amended July 27, 2000; Rule 3(D)(1) amended March 19, 2003, effective November 1, 2003; Rule 3(H) amended March 19, 2003, effective November 1, 2003. Renumbered and codified as § 3-803, effective July 18, 2008. § 3-803(D)(1) amended September 11, 2008; § 3-803 amended December 3, 2013, effective January 1, 2014; § 3-803 amended March 19, 2014; § 3-803(C) amended September 24, 2014, effective January 1, 2015; § 3-803(D)(1) amended January 14, 2015; § 3-803(A) and (D) amended December 14, 2016; § 3-803(D) amended March 8, 2017; § 3-803(F) and (I) amended January 2, 2019; §§ 3-803(B), (B)(2), (E), (F)(1 to 3), and (I) amended March 13, 2019.
