

**INDIANA STATE BAR ASSOCIATION
FAMILY AND JUVENILE LAW SECTION
FAMILY LAW CERTIFICATION BOARD**

**STANDARDS FOR CERTIFICATION AND RE-CERTIFICATION
OF LAWYERS SPECIALIZING IN FAMILY LAW**

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I. INTRODUCTION

The Family and Juvenile Law section of the Indiana State Bar Association has been an organized section since 1974. The Indiana State Bar Association has made available funds and administrative support to permit sections of the Bar Association to become Independent Certifying Organizations. The Family Law section has sufficient funds to support the application, administration and pursue the establishment of the Independent Certifying Organization in Family Law.

Pursuant to the authority vested in the Family Law Certification Board (“Board”) of the Family and Juvenile Law Section (“FJLS”) of the Indiana State Bar Association (“ISBA”) as an independent certifying organization (“ICO”) under Admission and Discipline Rule 30, the BOARD prescribes the following standards, requirements and application for certification and re-certification of lawyers specializing in family law:

The Family Law Certification Board is the certifying organization.

The Board members shall be appointed by the chair of the Section for two (2) year terms coinciding with the chair’s two (2) year term. The Board members shall be selected by the Chairman based upon their substantial involvement (over 50% of their normal full-time practice) in family law and that they are considered to be experts in the field of Family Law. Only presently certified specialists may serve on the Board except that one judge of the Indiana Court of Appeals may be appointed. The Board shall be selected based upon geographic and ethnic diversity, if possible. The members of the Board through October 31, 2013 are:

- Deborah L. Farmer Smith, Carmel (Co-Chair)
- Bruce M. Pennamped, Indianapolis (Co-Chair)
- Kathryn H. Burroughs, Carmel
- Kendra Gjerdingen, Bloomington
- Jill Goldenberg, Indianapolis
- Neil B. Hayes, Fort Wayne
- Leslie Craig Henderzahs, Fishers
- Katherine Vanost Jones, Evansville
- Paul A. Leonard, Highland
- Kelly A. Lonnberg, Evansville
- Teri Lorenz, Terre Haute
- Andrew C. Mallor, Bloomington
- Andrew Soshnick, Indianapolis
- Suzanne M. Wagner, Fort Wayne

The Chairman of the Family Law Section possesses resumes of presently serving panelists. The Chairman of the Family Law Section has written acceptances from all panel members.

The Board has hired a consultant to guide the Board in the process of test construction, educational testing, and measurement. The consultant's name and address is Dr. Holmes Finch, Professor of Psychology, Office of the Dean, Teachers College, Room 1005, Ball State University, Muncie, IN 47306-0625.

Accreditation by the Indiana Commission for Continuing Legal Education ("CLE") of the Board as created by the Family Law Section of ISBA as an ICO indicates solely that the certification program of the Board has met the CLE's standards.

A lawyer certified by the Board as a family law specialist may not state that he or she is certified or accredited by the CLE; the Board will actively enforce this prohibition. A lawyer may declare that the lawyer is a specialist in family law as certified by the Family Law Certification Board.

For purposes hereof, the term "family law" is defined as the practice of law dealing with all aspects of the Indiana Dissolution act (all of Title 31) and includes without limitation the following: taxation issues incident to family law practice; contempt; enforcement proceedings; mediation and negotiation of family law disputes; psychological and counseling aspects of family law; family law appellate practice; premarital agreements; non-marital domestic relationships; child custody in any forum; public enforcement of child support; paternity; adoption; children in need of services; grandparents' rights; professional responsibility; and differences between Indiana law and general family law (hereinafter referred to as "Family Law").

No provision contained herein shall in any way limit the right of a lawyer certified as a specialist in family law to practice in all fields of law. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in all fields of law, even though the lawyer is certified as specializing in family law.

No lawyer shall be required to be certified in family law before practicing in the field of family law. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in the field of family law, even though the lawyer is not certified as specializing in family law. A lawyer shall have been in practice for no less than five (5) years to be eligible for certification.

Certification in family law is individual and voluntary. Requirements for and benefits derived from certification may not be fulfilled by or attributed to a law firm of which the certified lawyer is a member.

The purpose of this Board is as follows:

- Recognize a comprehensive field of closely related fields of law.
- Delineate and identify lawyers in the field of Family Law also in their practice demonstrate their intensive training, education and work concentration necessary in the field to be declared a specialist.
- Determine by uniformly measurable criteria those lawyers who have attained extraordinary competence and efficiency in the delivery of legal services within the field of Family Law.
- Develop and improve the professional competence of lawyers in the area of Family Law.
- Recognize those lawyers who are peer recognized as experts in Family Law.
- Provide re-evaluation at appropriate intervals of the lawyers that have become certified in Family Law.
- Enhance public access to and efficient and economical delivery of appropriate legal services in the area of family law.
- Expedite consultation and referral in the area of family law.
- Encourage lawyer self regulation in the area of family law.
- Encourage diversity in defining and implementing certification of lawyers in the field of Family Law.

The board is a non-profit entity whose objectives and programs will foster the purpose of Admission and Disciplinary Rule 30 without regard to race, religion, sexual orientation, disability, age or gender of the applicant or re-applicant.

II. GENERAL REQUIREMENTS

A. Application. An applicant must complete an application in the form prescribed by the Board for certification and furnish such additional and supplemental information as may be required by the Board.

B. Members of American Academy of Matrimonial Lawyers. The Board recognizes that the practice, experiential and testing requirements of the American Academy of Matrimonial Lawyers (“Academy”) are greater than the same requirements of the Board. The Board recognizes that membership in the Academy requires oral testing of applicants of Indiana law and procedure as it relates to Family Law. The Board further recognizes that membership in the Academy is also based upon the ability of an applicant to provide references in a manner substantially similar to the reference requirements of the Board. Consequently, the Board has granted certification and re-certification to each member of the Academy in good standing as of June 8, 2002 who applied for certification, and the Board did not require the Academy member to take and pass the written test of the Board.

C. Expiration of Certification. A certification of specialization shall expire on December 31 of each fifth (5th) year of certification. Renewal of certification shall be required every five (5) years.

D. Revocation of Certification and Application for Reinstatement of Certification The Board shall revoke the certification of a lawyer recognized as specializing in family law if the lawyer is disbarred or suspended from the practice of law in Indiana or in any other jurisdiction. Applicant agrees to immediately report to the Board if he or she is disbarred or suspended from the practice of law in Indiana or in any other jurisdiction. In addition, the Board may revoke the certification of a lawyer recognized as specializing in family law for any reason specified in the Indiana Bar Certification Review Plan, the rules and policies of the Board, or the rules and policies of the Indiana Commission for Continuing Legal Education.

An attorney who was a Certified Family Law Specialist at the time of a suspension by the Indiana Supreme Court from the practice of law, and who has been reinstated by the Indiana Supreme Court, may apply to have the specialization certification reinstated, if application is made within ninety (90) days of reinstatement by the Indiana Supreme Court in the case of a suspension and reinstatement which occurs after the effective date of this Amendment; or, in the case of a suspension and reinstatement which predates this Amendment if application is made within ninety (90) days after the effective date of this Amendment. The applicant shall complete and submit to the Board the Application for Recertification, and shall provide to the Board a written explanation of the circumstances of the suspension and reinstatement. The Board shall have the discretion to grant reinstatement of certification, and in exercising its discretion shall take into account all relevant facts including the attorney’s references, the reason for the suspension, the length of suspension, and whether reinstatement by the Indiana Supreme Court was automatic. The Board shall have the discretion to require the applicant to take, and pass, the family law certification examination at the next regularly scheduled test date.

E. Fees. Each applicant shall pay the application and examination fees as prescribed by the Board from time to time. An applicant who appeals the disapproval of his/her application or his/her test score shall pay the appeal fees as prescribed by the Board from time to time. The current fees are:

·	Application	\$300.00
·	Testing	\$250.00
·	Application Appeal	\$100.00
·	Test Score Appeal	\$100.00
·	Annual Certification Fee	\$100.00
·	Recertification Fee	\$300.00

III. STANDARDS FOR CERTIFICATION

A. Good Character and Reputation. An applicant must demonstrate his or her good character and reputation.

1. An applicant must furnish a statement (and certify that the Applicant will update the statement during the certification period) as to whether or not he or she is the subject of an investigation,

complaint, inquiry or other disciplinary proceeding by any court or any segment of the bar, including without limitation, any local, state or district grievance committee of an organized bar, and if so, provide the details of such investigation, complaint, inquiry or proceedings including whether or not he or she has even been reprimanded, suspended, disbarred or otherwise disciplined by any court or grievance committee. The Board may deny certification based on a finding of a grievance committee or a court that an applicant has been guilty of professional misconduct, or defer certification based upon the pendency of such proceedings. However, the Board will consider the seriousness of the underlying fact of the grievance and will consider the passage of time since such discipline and the applicant's experience since that time. Failure to disclose such information is a material misrepresentation and may be cause for rejection.

2. An applicant also must furnish a statement as to whether he or she has ever been convicted, given probation, or fined for a serious crime, whether the result of a plea of guilty or *nolo contendere* or from a verdict after trial or otherwise and regardless of the pendency of an appeal. The term "serious crime" shall include any felony, as well as any lesser crime, a necessary element of which as determined by the statutory or common law definition of such crime, involved improper conduct of an attorney, interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit or bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime. The Board may deny certification if an applicant has been convicted, given probation or fined for a serious crime as defined herein.

3. An applicant upon being certified shall be under an affirmative duty to notify the IOC if at any time the certified specialist is found guilty of professional misconduct, is reprimanded, suspended, disbarred or otherwise disciplined by any court or grievance committee.

B. Employment History. An applicant must submit a complete statement of his or her employment since admission to the practice of law, including dates of employment, employer's name and address, and a brief summary of the nature of the work performed.

C. References. An applicant must submit the names and addresses of seven (7) lawyers (including one lawyer against whom the applicant has tried a family law matter and one lawyer with whom the applicant has mediated a family law matter), not currently partners, associates or relatives of the applicant, to be contacted as references to attest to the applicant's qualifications as a family law specialist. Such lawyers themselves must be substantially involved in the practice of family law, must practice in the same geographic area as the applicant and must be familiar with the applicant's practice. An applicant shall also submit the names and addresses of five (5) judges before whom the applicant has tried a family law matter. The Board may, at its option, request reference forms from other lawyers and judges to obtain additional information regarding the applicant. An applicant shall refrain from submitting as a reference the name of any person who is related to the lawyer seeking certification or recertification or currently engaged in legal practice with that lawyer.

The contents of statements of reference shall be treated confidentially by the Board except that upon appeal of the disapproval of an application, the applicant shall be entitled to receive a summary of the ratings given to the applicant by a reference.

The references will be requested to provide written comments concerning the applicant not only on such specific topics as knowledge, skill, thoroughness, preparation, effectiveness and judgment, but also concerning the applicant's ethics and professionalism.

The Board may deny certification based upon information received from statements of reference.

D. Task Requirement. An applicant must demonstrate that he or she has been substantially involved in the practice of family law.

1. For purposes hereof, substantial involvement in the field of family law shall mean the engagement by the applicant in legal service equivalent to more than fifty percent (50%) of the applicant's legal practice to Indiana family law cases during the five (5) years immediately preceding

application and that he or she has had actual experience in at least ten (10) of the following areas during the five (5) years immediately preceding application:

- a. Restraining orders/protective orders
- b. Dissolution of marriage and legal separation
- c. Custody of children
- d. Child support
- e. Spousal Maintenance
- f. Modification of support
- g. Division of property
- h. Taxation issues incident to dissolution of marriage
- i. Contempt and/or enforcement proceedings
- j. Mediation and/or negotiation of family law disputes
- k. Psychological and counseling aspects of dissolution of marriage
- l. Paternity
- m. Adoption
- n. Children in need of services
- o. Grandparents' rights
- p. Ethics as it relates to the specialty

2. An applicant shall demonstrate substantial involvement in the practice of family law by furnishing the Board with information regarding the nature of the legal services in which the applicant has been involved and identifying the types of issues of family law with which the applicant has dealt and the frequency of the applicant's involvement therewith. Such demonstration shall be made initially through completion by the applicant of the questionnaire included in the application, but the Board may require written or oral supplementation.

3. A prima facie showing of substantial involvement in the practice of family law is made by completion of at least three (3) of the following five (5) categories:

- a. Principal counsel in thirty (30) contested family law hearings involving one (1) or more areas set forth in subsection 1 above and submitted to a court for a decision. Hearings in which the opposing party was pro se may not be included.
- b. Principal counsel in five (5) hearings or trials under the Indiana Dissolution Act or which are otherwise within the definition of Family Law and which are three (3) hours or more in length and involve testimony of witnesses; or other alternative tasks which the Board deems to substantially comply with the foregoing task requirement, including without limitation, evidentiary hearings or trials in other practice areas or successful completion of a recognized trial advocacy program. Hearings in which the opposing party was pro se may not be included.
- c. Principal counsel in a minimum of thirty (30) marital settlement agreements, post or pre-nuptial agreements, paternity agreement or stipulated decrees.
- d. Principal counsel and principal author of the brief in three (3) Indiana family law appeals in which an opinion was filed.
- e. Service as mediator in at least thirty (30) family law mediations of one-half (½) day or more.

4. Alternative Task Requirements. In satisfaction of the task requirement listed above, an applicant may substitute completion of the following as equivalents for individual tasks:

- a. One-half (½) day hearing in circuit or superior court family law as pro tem judge service in contested hearings or trials shall be the equivalent of two (2) contested hearings or trials.

b. Teaching a minimum of thirty (30) actual hours of education programs approved by the Indiana Commission for Continuing Legal Education shall be the equivalent of fifteen (15) contested hearings or trials.

c. Preparation of a case for contested proceedings under the Indiana Dissolution Act or within the definition of Family Law shall be equivalent to a contested hearing or trial.

d. Acting as principal counsel and principal author of the pleadings and brief in one (1) appeal and /or writ filed with the Court of Appeals involving proceedings under the Indiana Dissolution Act or otherwise within the definition of Family Law shall be equivalent to four (4) contested hearings or trials.

5. For purposes hereof, principal counsel is the lawyer who spends a majority of the time on a case in the activities of preparation, review, filing and representing a client at an interview or hearing. There can be only one (1) principal counsel per case.

E. Educational Requirement. An applicant must demonstrate that he or she has participated in a minimum of thirty-six (36) hours of continuing legal education specifically approved for family law as required by the Supreme Court of Indiana for continued education, within three (3) years prior to the date on which the Application is due to be submitted (e.g., from July 1, 2009 through June 30, 2012 when the Application due date is June 30, 2012).

F. Examination. An applicant must attain a passing grade on a written examination applied uniformly to all applicants. An applicant shall have three (3) consecutive opportunities to attain a passing grade on the examination. An applicant who does not obtain a passing score on the examination after three (3) consecutive times may not take the examination again without special authorization from the Board.

The written examination shall be administered in Indianapolis, Indiana at a location and time selected by the Board.

The topics tested by the written examination include the areas included in family law, as well as professional responsibility, ethics, and differences between Indiana law and general law.

Before the examination is administered, each applicant shall present proof of identity in the form of a valid driver's license, passport, or other government-issued photo identification. No applicant shall be permitted to take reference materials into the testing site.

IV. PROCEDURES FOR APPEAL OF DENIAL OF APPLICATION OR FAILURE OF TEST

A. Notice of Challenge. Within thirty (30) days after mailing of notice from the Board that an applicant is ineligible, or that an application for certification or re-certification has been denied, or that an applicant has failed the test, the applicant may file a written challenge of the Board's decision, and may request an appearance before a review panel. If no written challenge or request for a hearing is timely submitted, the decision of the Board shall become final.

B. Review Panel. Upon receipt by the Board of a timely request for a hearing, the Board shall, no later than thirty (30) days from receipt of the request, appoint a review panel consisting of three (3) ad hoc appointees, all of whom are certified family law specialists, and a Board member to serve as chair. The Board member shall oversee and coordinate the activity of the review panel, but shall not vote on the decision.

C. Evidence. The record to be considered by the review panel shall for application denials be limited to review of the Board's notice of disqualification, the applicant's challenge, and the applicant's file and shall for test failure be limited to the contents of the test. If the review panel determines that further information is necessary for the review panel's consideration of applicant's challenge, the review panel shall issue a written remand to the applicant and the Board stating what further information or action is required.

D. Appearance by Applicant. If requested in the notice of challenge, the applicant may appear before the review panel at a time and place designated by the review panel chair. No new evidence may be introduced. The applicant and the Board may both be represented by counsel.

E. Written Decision. The review panel shall, after final consideration, including either reviewing or hearing the applicant's challenge and the Board's basis for denial, issue a written decision. Such determination shall be final.

V. STANDARDS AND PROCEDURES FOR RE-CERTIFICATION

A. Standards. During the period of certification, the certified specialist must:

1. Demonstrate that during the current five (5) year certification period, he or she has participated in a total of fifty (50) of the following proceedings in any combination:

a. Principal counsel in contested hearings or trial proceedings under the Indiana Dissolution Act, or within the definition of family law as defined in the Introduction, which are three (3) hours or more in length and involve the testimony of witnesses (not including the hearing in which the opposing party was pro se), or other tasks which the Board has deemed to substantially comply with the foregoing task requirement, including without limitation, evidentiary hearings or trials in other practice areas or successful completion of a recognized trial advocacy program.

b. Principal counsel in negotiation or mediation of family law settlement agreements, post or pre-nuptial agreements, paternity agreement or stipulated temporary, decrees, or post judgment orders.

c. Participation as a mediator or arbitrator in any proceedings within the definition of Family Law.

d. Principal counsel and principal author of the briefs in family law appeals in which an opinion was filed.

e. Demonstrate that any of the alternative tasks outlined in section D4 above have been completed to substitute as equivalents for individual tasks.

2. Demonstrate that during the three (3) year period prior to the date on which the Application for Re-Certification is due, he or she has completed not less than thirty-six (36) hours of

education activities specifically approved for family law or family law mediation as required by the Indiana Commission for Continuing Legal Education for continuing legal and/or mediation education as set out in Article III, Section E. In the discretion of the Board, credit may be given to an applicant for attendance at continuing legal and/or mediation education outside the State of Indiana for which the sponsor did not seek certification by the Commission, if the Board is satisfied that the quality of the continuing legal and/or mediation education is substantially equivalent to continuing education approved by the Commission.

3. Demonstrate that he or she has continued to meet the good character and reputation requirements as defined in Article III, Section A.
4. Demonstrate that he or she has continued to devote more than 50% of a normal full time practice to family law.
5. Submit the names and addresses of five (5) lawyer references as required in the initial application set out above in Article III, Section C.

B. Procedures. The certified specialist shall submit to the Board a fully completed and executed Application for Re-Certification in Family Law in the prescribed form on or before the filing deadline as established by the Board.

With the application, the certified specialist shall submit names of references in accordance with Article III, Section B, an updated Employment History in accordance with Article III, Section C, and an updated response to the good character and reputation request in accordance with Article III, Section A.

Submission of a timely Application for Re-Certification shall operate to extend the certified specialist's certification until the Board has acted on the Application for Re-Certification.

In the discretion of the CLE, an applicant for re-certification may demonstrate the foregoing requirements by providing a sworn statement that the applicant has engaged in the practice of family law substantially to the same extent as described in the application for original certification.