

Proposed Amendments to Supreme Court Rule 719

The Kansas Supreme Court is accepting public comment on proposed changes to Supreme Court Rule 719 relating to legal interns.

Proposed amendments to Rule 719 are extensive and the following are highlighted:

- Redefined purpose of the legal intern program.
- Reduction in the necessary hours to apply for a permit.
- Clarifying the supervising attorney's duties and responsibilities.

With such extensive revision, a redline version of the proposed amendments is not feasible. Instead, a table is provided with the proposed amended rule that outlines what is changed.

The Supreme Court will accept comment until 5 p.m. Wednesday, May 8, 2019. Comment may be made by email to rulenotice@kscourts.org with "Rule 719" in the subject line.

Rule 719

LEGAL INTERN PERMIT

- (a) **Purpose.** The bench and bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. This rule provides a law student the opportunity to gain practical skills in a supervised environment by assisting a licensed attorney in providing competent legal services for all persons and entities, including those unable to pay for these services. Law schools are encouraged to provide clinical instruction for legal interns.
- (b) **Supervising Attorney Fully Responsible.** A legal intern with a legal intern permit may practice law only under the supervision of a licensed attorney. A supervising attorney must meet all of the requirements under subsection (d) and is fully responsible for all of the legal intern's activities performed under the attorney's supervision.
- (c) **Application for a Legal Intern Permit.** A law student wishing to obtain a legal intern permit must submit an application to the clerk of the appellate courts and:
- (1) be a student enrolled at a law school approved by the American Bar Association;
 - (2) have successfully completed, or be concurrently enrolled in, the professional responsibility course required by the law school's curriculum;

- (3) have completed:
 - (A) at least 59 hours of legal studies; or
 - (B) at least 44 hours of legal studies, if the intern's work will be supervised by a licensed Kansas attorney who is regularly engaged in the teaching of law at a law school approved by the American Bar Association and whose duties include participation in a legal clinic operated as a regular part of the law school's educational program;
 - (4) submit to the clerk of the appellate courts certification by the dean of the law school where the intern is enrolled, or the dean's designee, that the student meets the required number of hours under (c)(3) and is of good character, competent legal ability, and adequately trained to perform as a legal intern;
 - (5) pay the fee required under Rule 704;
 - (6) submit to the clerk of the appellate courts certification that the intern has read and will abide by the rules relating to discipline of attorneys and subscribe to an oath to support the United States and Kansas Constitutions and faithfully perform the duties of a legal intern;
 - (7) secure a qualified supervising attorney under subsection (d); and
 - (8) provide an expected date of graduation.
- (d) **Supervising Attorney.** A legal intern must be supervised by a supervising attorney.
- (1) To qualify as a supervising attorney, an attorney must:
 - (A) be a Kansas attorney in good standing;
 - (B) not have received professional discipline of probation, suspension, disbarment, or loss of license;
 - (C) be regularly engaged in the practice of law in Kansas;
 - (D) provide written consent to the clerk of the appellate courts that includes the following:

- (i) a statement that the supervising attorney is professionally responsible for guiding the legal intern's work and for supervising the quality of the intern's work; and
 - (ii) the dates the supervision of the intern begins and ends, which may extend no later than the intern's date of graduation.
 - (E) train and assist the legal intern to the extent necessary to assure proper performance of the duties entrusted to the intern; and
 - (F) immediately submit written notice to the clerk of the appellate courts and the intern when supervision of the intern ends or is terminated for any reason, at which time the intern's permit is considered inactive until a new supervising attorney provides written consent under (d)(1)(D) and the permit is transferred under subsection (f).
 - (2) The supervising attorney must not supervise more than two legal interns at the same time, but this limitation does not apply to the following:
 - (A) a full-time staff member of a state or local legal aid society;
 - (B) a county attorney, district attorney, municipal attorney, attorney general, or public defender; or
 - (C) a licensed Kansas attorney who is regularly engaged in the teaching of law at a law school approved by the American Bar Association and whose duties include participation in a legal clinic or field placement program operated as a regular part of the law school's educational program.
 - (3) An intern may have more than one supervising attorney if each supervising attorney submits to the clerk of the appellate courts the written consent required under (d)(1)(D).
- (e) **Permit Status.**
- (1) A legal intern permit terminates at the conclusion of the term of supervision stated in the consent provided under subsection (d)(1)(D)(ii), unless terminated early under this section. No permit will be valid after the date of the intern's graduation.

- (2) The law school dean, or the dean's designee, must immediately submit to the clerk of the appellate courts a notice of withdrawal of the certification provided under subsection (c)(4) if the intern:
 - (A) graduates earlier than provided in subsection (c)(8);
 - (B) withdraws from law school;
 - (C) fails to remain in good standing;
 - (D) engages in conduct that would prevent the law school from certifying the intern's character and fitness for any jurisdiction's board of bar examiners; or
 - (E) engages in conduct that demonstrates the intern is unfit for the duties and responsibilities of a legal intern.
 - (3) If the law school dean, or the dean's designee, submits to the clerk of the appellate courts a notice of withdrawal of the certification provided under subsection (c)(4), the intern's permit is terminated immediately. The clerk of the appellate courts must send notice of the termination to the intern and the supervising attorney.
 - (4) The law school dean, or the dean's designee, need not provide the intern notice, a hearing, or any showing of cause prior to withdrawal of the certification provided under subsection (c)(4).
 - (5) When a supervising attorney provides notice to the clerk of the appellate courts that an intern's permit is terminated for any reason other than completion of the stated time period under subsection (d)(1)(D)(ii), the clerk of the appellate courts must send notice of the termination to the intern, the supervising attorney, and the law school dean.
 - (6) The Supreme Court may terminate a legal intern permit without notice, a hearing, or any showing of cause. The Supreme Court will submit notice of the termination to the clerk of the appellate courts. The clerk of the appellate courts must send notice of the termination to the intern, the supervising attorney, and the law school dean.
- (f) **Transfer of Permit.** If a legal intern obtains a new supervising attorney, the legal intern's permit may be transferred without submitting a new application or filing fee under subsection (c) as set forth below.

- (1) The new supervising attorney must provide the clerk of the appellate courts a written consent under subsection (d)(1)(D).
 - (2) Upon receipt of the new supervising attorney's consent, the clerk must provide notice to the legal intern that the permit has been transferred. A legal intern must not perform any service under this rule until receipt of the clerk's notice that the permit has been transferred.
- (g) **Client's Written Consent.** Before a legal intern may represent a nongovernment client, the client must consent in writing to representation by the legal intern under the supervision of the supervising attorney. The client must specifically consent in writing to the legal intern appearing in court under subsection (i)(2) without a supervising attorney present.
- (h) **Entry of Appearance.**
- (1) Subject to the requirements of this rule, a legal intern may appear in any court or before any administrative tribunal.
 - (2) A supervising attorney admitted to practice in the court in which an intern is appearing must introduce the intern in the manner prescribed by the individual court.
 - (3) An entry of appearance must be filed with the clerk of the court.
 - (A) In each case, the supervising attorney must:
 - (i) file with the clerk of the court an entry of appearance that states the intern's representation in the case; and
 - (ii) attach to the entry of appearance a copy of the client's written consent under subsection (g) that is countersigned by the supervising attorney.
 - (B) Notwithstanding paragraph (A), when the intern represents the government:
 - (i) the client's written consent is not required; and
 - (ii) the intern must file with the clerk of the court the type of notice required for appearance before the court.

- (i) **In-Court Appearance.** A legal intern's appearance is subject to the following requirements.
 - (1) The supervising attorney must be personally present for any in-court proceeding, except a proceeding under paragraph (2) and (3).
 - (2) With the client's consent under subsection (g), the supervising attorney's written consent, and the court's approval, a legal intern may appear in court without the personal presence of the supervising attorney in the following matters:
 - (A) a civil matter, other than a domestic matter, when the amount in controversy is less than \$1,000; and
 - (B) a criminal matter when the intern is appearing on behalf of a defendant who does not have the right to counsel under any constitutional provision, statute, or court rule.
 - (3) With the supervising attorney's written consent and the court's approval, a legal intern may appear on behalf of the government in a criminal matter without the personal presence of the supervising attorney.
 - (4) A legal intern may not participate in oral argument in the Supreme Court or the Court of Appeals unless the court grants special permission after a motion is filed by the supervising attorney.
- (j) **Out-of-Court Practice.** A legal intern may perform any function of an attorney subject to the following guidelines.
 - (1) With the supervising attorney's approval, a legal intern may engage in the out-of-court practice of law outside the personal presence of the supervising attorney.
 - (2) The supervising attorney must:
 - (A) sign all documents filed with a court or administrative body, unless the administrative body specifically allows intern-only signature; and
 - (B) approve any other legal document prepared on behalf of a client that affects the client's rights or interests.

- (k) **Compensation.** A client must not directly compensate a legal intern in any form. But an attorney, law firm, legal aid bureau, public defender agency, state, county, or municipality may:
- (1) compensate the legal intern and
 - (2) charge a client for the intern's services.
- (l) **Master of Law Student.** A student who is enrolled in a master of law program (LL.M.) at a law school approved by the American Bar Association and who has previously received a juris doctor degree from a law school approved by the American Bar Association is eligible to apply for a legal intern permit under this rule.
- (m) **Notice and Change of Contact Information.** When the clerk of the appellate courts is required by this rule to send notice to the legal intern, the clerk will send notice to the intern's address on file in the clerk's office. A legal intern must immediately notify the clerk of the appellate courts after a change of legal name, residential address, or residential/personal telephone number if this information changes during the pendency of the legal intern permit.

Reformatted and Reorganized Admission Rule on Legal Intern Permits

**REVISIONS TABLE
For New Rule 719**

<u>NEW RULE PROVISION</u>	<u>DESCRIPTION</u>	<u>SOURCE FOR NEW PROVISION IN CURRENT 719</u>
(a) Purpose	Refocused Purpose	Preface; New language to refocus purpose
(b)	Supervising Attorney Responsible	(a)(1)
(c)	Application for Permit; requirements	(b)
(c)(1)	Approved ABA law school	(b)(1)
(c)(2)	Completely Prof. Responsibility	New
(c)(3)	Required completed hours	(b)(2) – New language -- changed from 60 to 59 hours
(c)(4)	Law School Dean certification	(b)(4)
(c)(5)	Fee	(b)(5)
(c)(6)	Read and subscribe to Atty oath	(b)(6)
(c)(7)	Supervising atty	New – Clarify that Intern must have supervising attorney
(c)(8)	Graduation date	New
(d)	Supervising attorney	
(d)(1)	Requirements for Supervising attorney	(e)
(d)(1)(A)	In good standing	(e)(1)
(d)(1)(B)	No discipline	New Provision
(d)(1)(C)	Regularly engaged in practice of law	(e)(1)
(d)(1)(D)	Consent to liability for intern’s work	(e)(2)
(d)(1)(E)	Assist Intern with duties	(e)(3)
(d)(1)(F)	Notify clerk upon termination	New
(d)(2)	Supervision of no more than 2 attys	(e)(4)
(d)(2)(A)	Not apply to legal aid society	(e)(4)
(d)(2)(B)	Not apply to co and state atty offices	(e)(4)
(d)(2)(C)	Not apply to law professor at law school for legal clinic	(e)(4)
(d)(3)	Multiple Supervising Attorneys	New
(e)	Permit Status	
(e)(1)	Termination at graduation	(c)(1)
(e)(2)	Withdrawal of Certification by Dean	(c)(2)

(e)(3)	Notice of termination to clerk	(c)(2)
(e)(4)	No notice to Intern of Withdrawal of Certification by Dean	(c)(2)
(e)(5)	Notice of Termination by Supervising Attorney	New
(e)(6)	Termination by Supreme Court	(c)(3)
(f)	Transfer of Permit	New
(f)(1)	New Supervising Attorney provide Notice	New
(f)(2)	Notice from Clerk must be received prior to providing services	New
(g)	Clients Written Consent	(a)(2)
(h)	Entry of Appearance	(a)(2)
(h)(1)	Appear in any court subject to the rule	(a)(2)
(h)(2)	Supervising Atty must be present when	(a)(2)(i)
(h)(3)(A)	Supervising Atty must file entry of appearance for intern and attach written consent	New
(h)(3)(B)	Representing Government exception	(a)(4)
(i)	In-Court Appearances	
(i)(1)	Supervising Attorney personally present	
(i)(2)(A)	Civil Matter less than \$1,000	(a)(2)(i)
(i)(2)(B)	Criminal Matter no right to counsel	(a)(2)(ii)
(i)(3)	Government in Criminal Matter	(a)(3)
(i)(4)	Appellate Arguments	(d)(2)
(j)	Out of Court Practice	
(j)(1)	Out of Court Practice outside presence of supervising attorney	(d)(1)
(j)(2)	Supervising attorney's responsibility for signing documents	(d)(1)
(k)	No compensation to intern from client	(a)(7)
(k)(1)	Law firm can compensate intern	(a)(7)
(k)(2)	Law firm can charge for intern's services	(a)(7)
(l)	Master of Law Students	(f)
(m)	Notice and Change of Contact Information	New